



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 16-100

April 14, 2017

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

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**APPEARANCES:**

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

TOWN OF ARLINGTON

Petitioner

## I. INTRODUCTION AND PROCEDURAL HISTORY

On October 5, 2016, the Town of Arlington (“Town” or “Arlington”), through its agent Good Energy, L.P. (“Good Energy”), filed with the Department of Public Utilities (“Department”) a petition for approval of a municipal aggregation plan (“Plan”) pursuant to G.L. c. 164, § 134. Under the Plan, Arlington will establish a municipal aggregation program (“Program”) through which the Town will aggregate the load of electric customers located within its municipal borders in order to procure electric supply for Program participants. Eligible customers will be automatically enrolled in the Program unless they choose to opt out. G.L. c. 164, § 134(a). The Department docketed this matter as D.P.U. 16-100.

On October 14, 2016, the Department issued a Notice of Public Hearing and Request for Comments (“Notice”).<sup>1</sup> On November 7, 2016, the Department conducted a public hearing.<sup>2</sup> The Town Manager and a member of the Metropolitan Area Planning Council (“MAPC”)<sup>3</sup> spoke on behalf of the Plan (Tr. at 6-8, 13-14). In addition, on November 7, 2016, NSTAR Electric Company, d/b/a Eversource Energy (“NSTAR Electric”) filed written

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<sup>1</sup> On October 5, 2016, Good Energy filed a petition to intervene. The Department’s Notice did not seek petitions to intervene. In addition, as agent for the petitioner, Good Energy need not intervene (see Petition at 2). For these reasons, the Department takes no action on Good Energy’s petition.

<sup>2</sup> Pursuant to G.L. c. 164, § 134(a), the Department must hold a public hearing prior to final review and approval of a municipal aggregation plan.

<sup>3</sup> The Town is a member of MAPC (Petition at 2).

comments (“Comments”).<sup>4</sup> On November 30, 2016, the Town filed responses to the Department’s first set of information requests.<sup>5</sup>

## II. SUMMARY OF THE PROPOSED PLAN

On June 6, 2016, the Town retained Good Energy as both its agent and consultant to develop the Plan and to assist in the design, implementation, and management of the Program (Plan at 4-5; Petition at 2 and Att. 1, Exh. B at 1-5). The Town and Good Energy developed the Plan in consultation with the Department of Energy Resources (“DOER”) and the electric distribution company serving Arlington, NSTAR Electric (Letter from DOER to Arlington (September 26, 2016)). The Town Manager, with the assistance of Good Energy, will be responsible for all Program decisions, including the selection of the competitive supplier(s), execution of contracts, and termination of the Program (Plan at 4, 11; Petition, Att. 1, Exh. B at 5-6 and Att. 4 at 11).

Under the Plan, the Town will issue a request for proposals to solicit bids from competitive suppliers for firm, all-requirements electric power supply (Plan at 5-6). Price, terms, and conditions for electric supply may differ among customer classes (Plan at 10).

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<sup>4</sup> In its comments, NSTAR Electric takes no position as to whether the Department should approve or deny Arlington’s Plan (NSTAR Electric Comments at 1). Instead, NSTAR Electric’s comments pertain to municipal aggregation programs generally and the effect of such programs on electricity markets and consumer prices in Massachusetts (*id.*). With the exception of certain comments regarding the transparency of pricing in customer education (*see* Section IV.A.2.e., below), NSTAR Electric’s comments are beyond the scope of this proceeding and, therefore, Department will not address them here.

<sup>5</sup> On its own motion, the Department moves Arlington’s responses to information requests DPU 1-1 through DPU 1-4 into the evidentiary record in this proceeding.

Arlington will launch the aggregation when it obtains bids that meet the criteria set by the Town (Plan at 1).<sup>6</sup>

As its default offering, the Town intends to offer “Arlington Local Green,” which will include five percent more renewable energy certificates (“RECs”) than the required Massachusetts Renewable Portfolio Standard (“RPS”) obligation (Plan at 2). Eligible customers who do not opt out will be automatically enrolled in Arlington Local Green (Plan at 13 and Exh. B). In addition, the Town intends to offer three optional products: (1) “Arlington Basic,” which will meet the required RPS obligation; (2) “Arlington Premium 100 % Local Green,” which will be comprised of RECs that are equal to 100 percent of a customer’s metered consumption; and (3) “Arlington Premium 50 % Local Green,” which will be comprised of RECs that are equal to 50 percent of a customer’s metered consumption (Plan at 2).<sup>7</sup> Customers who wish to enroll in any of the three optional products must contact the competitive supplier directly via telephone to enroll (Plan at Exh. B).

After executing a contract for electric supply, the Town, through the competitive supplier, will begin the process of notifying eligible customers about Program initiation and customers’ ability to opt out of the Program (Plan at Exh. A; Petition, Att. 4 at 9). The notification process will commence 30 days prior to the start of service and will include

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<sup>6</sup> For example, the Plan provides that residential and commercial and industrial pricing on the effective day must be at least \$0.001 per kilowatt hour less than the then-applicable fixed basic service rate at Program initiation (Plan at 6; Petition, Att. 4 at 33).

<sup>7</sup> The Town states that it intends to purchase as many RECs from within the Commonwealth as possible for the “local” products (Plan at 2).

direct mailings, newspaper notices, public service announcements, website postings, social media, and the posting of notices at Arlington municipal offices and buildings (Plan at 7-9; Petition, Att. 3).

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

Program participants will receive one bill from the electric distribution company, which will include the competitive suppliers' generation charge(s), the distribution company's delivery charge, and any charges for additional RECs (Plan at 2, 11). The Program's generation charge(s) will be paid by Program participants and will include a \$0.001 per kilowatt hour ("kWh") administrative adder that will be used to compensate Good Energy for the development and implementation of the Program, including its provision of ongoing services such as: (1) issuing subsequent requests for proposals for competitive supply; (2) negotiating future contracts; and (3) providing customer service and education (Plan at 10; Petition, Att. 1, Exh. B at 1-4 and Att. 4 at 29). Additionally, during the Program's first year, the generation charge(s) will include a \$0.000025 per kWh

administrative adder that will be used to compensate MAPC for costs associated with the services it provided to the Town related to the Plan (Plan at 10; Petition, Att. 4 at 29).<sup>8</sup>

The Town requests a waiver, on its behalf and on behalf of its competitive supplier, from the information disclosure requirements contained at 220 C.M.R. § 11.06, which requires competitive suppliers to mail information disclosure labels directly to customers on a quarterly basis (Petition at 2-3).<sup>9</sup> As good cause for the waiver, the Town states that it can provide this information more effectively and at a lower cost using means other than those specified in the Department's regulations, including press releases, public service announcements on cable television, postings at Town offices and buildings, and postings on the Town's and/or Good Energy's website (Plan at 9).

### III. STANDARD OF REVIEW

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

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<sup>8</sup> On behalf of the Town and other member communities, MAPC collected sample municipal aggregation procurements, met with vendors, researched renewable energy options, developed and issued requests for proposals for an aggregation consultant, and administered the procurement process (Petition at Exh. 2).

<sup>9</sup> The disclosure label provides information regarding a competitive supplier's fuel sources, emission characteristics, and labor characteristics. 220 C.M.R. § 11.06.

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

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

Participation in a municipal aggregation plan is voluntary and a retail electric customer has the right to opt out of plan participation. Id. Municipalities must inform electric customers of: (1) automatic plan enrollment and the right to opt out; and (2) other pertinent information about the plan. Id.

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

220 C.M.R. § 11.01 et seq.

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

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

#### IV. ANALYSIS AND FINDINGS

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

##### 1. Statutory Filing Requirements

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



G.L. c. 164, § 134(a).<sup>10</sup> The Town provided meeting minutes demonstrating local approval through an affirmative vote of the Board of Selectmen prior to initiating the process of aggregation (Petition, Att. 1, Exh. A). Therefore, the Department concludes that Arlington has satisfied the statutory requirement regarding local governmental approval.

Second, a municipality must consult with DOER in developing its municipal aggregation plan. G.L. c. 164, § 134(a). DOER submitted a letter to the Town confirming that the Town completed this consultation (Letter from DOER to Arlington (September 26, 2016)). Therefore, the Department concludes that Arlington has satisfied the statutory requirement regarding consultation with DOER.

Third, a municipality, after development of a plan in consultation with DOER, must allow for citizen review of the plan. G.L. c. 164, § 134(a). General Laws c. 164, § 134(a) is silent on the process a municipality must use to satisfy citizen review of a municipal aggregation plan. The Department, however, requires municipalities to allow citizens sufficient opportunity to provide comments on a proposed plan prior to the municipality filing its plan with the Department. Cape Light Compact, D.P.U. 14-69, at 42 (2015); Town of Ashby, D.P.U. 12-94, at 27 (2014). Arlington made the Plan available from June 21, 2016, through July 12, 2016, at the Town Hall and on the Town's website (Petition, Att. 1 at 2 and Exh. E). In addition, the Town provided documentation demonstrating that municipal

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<sup>10</sup> A town may initiate a process to aggregate electrical load upon authorization by a majority vote of town meeting or town council. A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor or, where applicable, the city manager. G.L. c. 164, § 134(a).

officials presented the Plan at a public meeting on June 29, 2016 (id.). Therefore, the Department concludes that Arlington has satisfied the statutory requirement regarding citizen review.

Finally, a municipal aggregation plan filed with the Department shall include: (1) the organizational structure of the program, its operations, and its funding; (2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for terminating the program. G.L. c. 164, § 134(a). After review, the Department finds that the Plan includes each of these components (see Plan at 4-12). Accordingly, the Department concludes that Arlington has satisfied all statutory filing requirements.

## 2. Substantive Requirements

### a. Introduction

Municipal aggregation plans must provide for universal access, reliability, and equitable treatment of all classes of customers. G.L. c. 164, § 134(a). In addition, municipalities must inform electric customers prior to their enrollment of their right to opt out of the program and disclose other pertinent information regarding the plan.<sup>11</sup> Id.

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<sup>11</sup> The municipal disclosures must: (1) prominently identify all charges; (2) provide the basic service rate; (3) describe how to access the basic service rate; and (4) disclose that a customer may choose the basic service rate without penalty. G.L. c. 164, § 134(a).

b. Universal Access

The Department has stated that the universal access requirement is satisfied when a municipal aggregation program is available to all customers within the municipality. City of Lowell, D.P.U. 12-124, at 44-46 (2013); D.T.E. 06-102, at 19; Cape Light Compact, D.T.E. 00-47, at 24 (2000). Under the Plan, all eligible customers in the Town will be enrolled in the Program unless the customer previously contracted with a competitive supplier or affirmatively opted out of the Program (Plan at 13; Petition, Att. 4 at 3). The Plan also provides that customers may return to basic service at any time (Plan at 13 and Exh. A at 3). After review, the Department concludes that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding universal access. Town of Natick, D.P.U. 13-131, at 19-20 (2014); D.P.U. 12-124, at 45-46; D.T.E. 06-102, at 20.

c. Reliability

A municipal aggregation plan must provide for reliability. G.L. c. 164, § 134(a). The contract that the Town will enter into with the competitive supplier contains provisions that commit the competitive supplier to provide all-requirements power supply, make all necessary arrangements for power supply, and use proper standards for management and operations (Plan at 13; Petition, Att. 4 at 13-14). In addition, Arlington will use the services of Good Energy, a licensed electricity broker overseen by the Town Manager, to ensure that the Town has the technical expertise necessary to operate the Program (Petition, Att. 1, Exh. B at 1-5; Petition at Exh. 2 at 20, 38-42). After review, the Department concludes that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding reliability. D.P.U. 14-69, at 45; D.P.U. 13-131, at 20; D.P.U. 12-124, at 46.

d. Equitable Treatment of All Customer Classes

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

Here, the Plan allows for varied pricing, terms, and conditions for different customer classes (Plan at 13-14).<sup>12</sup> This feature of the Plan's design appropriately takes into account the different characteristics of each customer class. D.P.U. 13-131, at 22-25; D.P.U. 12-94, at 32; D.P.U. 12-124, at 47. After review, the Department finds that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding equitable treatment of all customer classes.

e. Treatment of New Customers

Pursuant to G.L. c. 164, § 134(a), participation in an aggregation program "shall be voluntary." Further, G.L. c. 164, § 134(a) provides that it is the duty of the municipal aggregator to "fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and that they have the right to opt out of the aggregated entity without penalty."

Pursuant to the Plan, new customers that move into the Town and have not already informed NSTAR Electric that they seek to continue service with their existing competitive

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<sup>12</sup> The customer classes in the Program will be the same as NSTAR Electric's customer classes (Plan at 14).

supplier would be automatically enrolled in the Program prior to receiving an opt-out notice (Plan at 13 and Exh. A at 2-3). At a future date, the Town would notify such customers by mail of their ability to opt out of the Program (Plan at 13 and Exh. A at 2-3).

The Town maintains that its proposal in this regard is consistent with prior Department precedent regarding the treatment of new customers (Exhs. DPU 2-1, DPU 2-2, citing D.T.E. 00-47). Further, the Town states that, in proposing such treatment, it “reflects the practice of [NSTAR Electric] for enrolling new customers, a previously approved by the Department.” (Exh. DPU 2-1).

The Department recently addressed the issue of the treatment of new customers in municipal aggregations in NSTAR Electric’s service territory in Town of Lexington, D.P.U. 16-152 (2017). The Department found that, in order to ensure that participation in an aggregation program is voluntary and that ratepayers are fully informed that they have the right to opt out in advance of automatic enrollment, new customers that move into a municipality with an established aggregation program and have not previously informed NSTAR Electric that they wish to maintain service with their existing competitive supplier must first be placed on basic service. D.P.U. 16-152, at 17. Then, once the municipal aggregator (through its competitive supplier) has complied with the applicable opt-out notice requirements, the aggregator may enroll the new customers in the aggregation program if the customers have not opted out. D.P.U. 16-152, at 17.

The Town’s proposed treatment of new customers is the same as the treatment addressed in D.P.U. 16-152. For the reasons addressed in D.P.U. 16-152, at 13-17, the

Department does not approve the Town's proposed treatment of new customers. Instead, the Town shall apply the treatment of new customers approved in D.P.U. 16-152. Within 14 days of the date of this Order, the Town shall file a revised Plan reflecting the treatment of new customers approved herein.

f. Customer Education

General Laws c. 164, § 134(a), provides that it is the "duty of the aggregated entity to fully inform participating ratepayers" that they will be automatically enrolled in the Program and that they have the right to opt out. It is critical that customers, including customers with limited English language proficiency, are informed and educated about a municipal aggregation plan and their right to opt out of the program, especially in light of the automatic enrollment provisions afforded to these plans. See D.T.E. 06-102, at 21.

The Town's public outreach and education plan will provide, in multiple languages where appropriate, Program information to customers through: (1) general education, which will consist of a press conference, media outreach, public notices and postings, and a toll-free customer service number and website operated by Good Energy; and (2) a direct mail opt-out notice, which will inform customers of their rights under the Program, including their right to opt-out at any time without penalty (Petition, Att. 3 at 2-4). The form of the exemplar opt-out notice filed by the Town is consistent with the Department's requirements that such notices be sent in clearly marked municipal envelopes that state they contain information regarding customers' participation in the Program and include a return-addressed,

postage-paid reply envelope to protect consumer signatures from exposure (Plan at Exh. B); D.P.U. 13-131, at 26-27.

Without specific reference to the exemplar opt-out notice provided by the Town in this proceeding, NSTAR Electric argues that municipal aggregation programs should display a higher level of transparency regarding products and pricing (NSTAR Electric Comments at 1-2). Pursuant to G.L. c. 164, § 134(a), the Town must prominently identify all Program charges and include a full disclosure of the basic service rate. In this regard, the Town states that its opt-out notice will “prominently state all [P]rogram charges” and “compare the price and primary terms” of the Program offerings to the price and terms of NSTAR Electric’s current basic service offering (Plan at 8; Petition, Att. 3 at 3-4).

The exemplar opt-out notice provided by the Town, however, does not prominently identify all Program charges. First, the notice does not identify the two administrative adders that will be used to compensate Good Energy and MAPC (see Plan at Exh. B). Second, the notice does not prominently identify the costs of optional products under the Program (id.). The first page of the exemplar opt-out notice provided by the Town identifies the charges for its default offering and provides a comparison of the price of this offering to basic service (id.). The charges for each of the three optional products, however, are identified only on the second page of the opt-out notice, in a less prominent manner than the default offering, and without comparison to NSTAR Electric’s basic service offering (id.). To address these issues, the Town shall file a revised exemplar opt-out notice that: (1) prominently identifies both administrative adders; and (2) more prominently identifies all optional products and

associated charges on the first page of the opt-out notice, with a clear comparison to NSTAR Electric's basic service offering.

General Laws c. 164, § 134(a) further provides that municipalities must fully inform customers about the plan, including the benefits and consequences of municipal aggregation. Certain municipal aggregations may seek competitive supply rates that provide savings for participating electric customers compared to basic service rates. Here, although the default product offered by Arlington will contain more RECs than basic service, the Town states that it will only launch the Program when it obtains bids that meet the criteria set by the Town, including residential and commercial and industrial pricing that is less than the applicable fixed basic service rate in effect (Plan at 1; Petition, Att. 4 at 33). Due to changes in market conditions and differences in contract terms a municipal aggregation cannot guarantee customers cost savings compared to basic service over time. See D.P.U. 12-124, at 57-66. Accordingly, the Town must clearly explain that customers are not guaranteed cost savings compared to basic service.

The Town states that its opt-out notice will inform customers that the Program cannot guarantee savings compared to basic service (Plan at 8; Petition, Att. 3 at 3-4). While the exemplar opt-out notice provided by the Town does contain language indicating that "there is no guarantee of future savings," this language does not appear until the final paragraph on the second page of the notice (Plan at Exh. B). In contrast, language regarding "reduced electric rates" and language indicating that customers will "benefit" from the "lower rate" appears several times more prominently in the notice, without any accompanying explanation



of the duration of any savings or the fact that such savings cannot be guaranteed beyond a certain date (id.).<sup>13</sup> To address these issues, the revised exemplar opt-out notice to be filed with the Department shall state, in each instance where cost savings or lower rates are referenced, that such savings cannot be guaranteed. The revised opt-out notice shall clearly identify the applicable date of NSTAR Electric's next basic service rate change, explain that the negotiated fixed price is guaranteed to remain below the basic service rate only until that date, describe how to access the basic service rate, and disclose that a customer may choose the basic service rate without penalty.

Finally, while G.L. c. 164, § 134(a) is silent regarding customer education after a customer is enrolled in a municipal aggregation program, the Town must continue to provide customers with information regarding the ongoing operations of the Program. D.P.U. 14-69, at 48; Town of Dalton, D.P.U. 13-136, at 23 (2014). Here, the Town's public outreach and education plan only provides that ongoing education will continue "through the media and the toll-free telephone number" (Petition, Att. 3 at 4). In this regard, the Town's ongoing customer education is deficient. To address this issue, the Town shall provide a supplement to its public outreach and education plan that describes with more specificity the type of ongoing information Arlington will provide to Program participants and how such

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<sup>13</sup> For example, in the first paragraph of the opt-out notice, the Town provides that one of the goals of the program is "reduced electric rates" (Plan at Exh. B). In addition, Arlington's opt-out notice provides that, after enrollment, customers will "start benefiting from the lower rate" (id.).

information will be provided, particularly with respect to changes in Program offerings and price.

The Town shall file the revised exemplar opt-out notice and supplement to its public outreach and education plan within 14 days of the date of this Order. The Department will review the revised exemplar opt-out notice and supplemental education plan for compliance with the directives addressed above. In addition, prior to the start of the 30-day opt-out period, the Town shall submit a copy of the final opt-out notice to the director of the Department's Consumer Division<sup>14</sup> for review and approval. After review, with the exception of the issues regarding the opt-out notice and ongoing education discussed above, the Department concludes that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding customer education.

B. Waiver from Department Regulations Regarding Information Disclosure

General Laws 164, § 134, requires that a municipal aggregation plan meet any requirements established by law or the Department concerning aggregated service. In this regard, Arlington has requested a waiver, on behalf of itself and its competitive supplier, from the information disclosure requirements contained in 220 C.M.R. § 11.06(4)(c). The Department's regulations at 220 C.M.R. § 11.08 permit a waiver from these regulations for good cause shown. As good cause for the waiver, the Town maintains that the competitive

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<sup>14</sup> In addition, the final opt-out notice must be filed in the instant docket, in a manner consistent with the Department's filing requirements. 220 C.M.R. § 1.02.

supplier can provide the same information more effectively and at a lower cost through alternate means (Plan at 9; Petition at 2-3).

Arlington's proposed information disclosure strategy is similar to the strategies approved by the Department in other municipal aggregation plan proceedings. See e.g., D.P.U. 13-131, at 29-31; Town of Greenfield, D.P.U. 13-183, at 27-29 (2014). The Department finds that Arlington's proposed alternate information disclosure strategy will allow the competitive supplier to provide the required information to its customers as effectively as the quarterly mailings required under 220 C.M.R. § 11.06(4)(c). Accordingly, pursuant to 220 C.M.R. § 11.08, the Department grants the Town's request for a waiver from 220 C.M.R. § 11.06(4)(c) on behalf of itself and its competitive supplier.<sup>15</sup> Arlington and its competitive supplier are required to adhere to all other applicable provisions of 220 C.M.R. § 11.06.

#### V. OTHER REQUIREMENTS

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

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<sup>15</sup> This waiver is only for the Arlington Program. The competitive supplier must continue to adhere to the applicable provisions of 220 C.M.R. § 11.06 for its other customers.

municipal aggregation plan); Town of Lanesborough, D.P.U. 11-27, at 24 (2011) (notice requirements to local distribution company).

The Town shall submit an annual report to the Department by December 1<sup>st</sup> of each year. The annual report shall, at a minimum, provide: (1) a list of the Program's competitive suppliers over the past year; (2) the term of each energy supply agreement; (3) monthly enrollment statistics by customer class; (4) a brief description of any renewable energy supply options included in the Program; and (5) a detailed discussion (with all relevant documentation) addressing Town and competitive supplier compliance with the alternative information disclosure strategy approved in Section IV.B, above. The Town's first annual report shall be filed on or before December 1, 2017.

## VI. CONCLUSION

Consistent with the discussion above, the Department finds that the Plan satisfies all statutory filing requirements contained in G.L. c. 164, § 134. In addition, with the waiver from the information disclosure requirements contained in 220 C.M.R. § 11.06(4)(c) allowed above, and the required changes to the opt-out notice and public outreach and education plan, the Department finds that the Plan meets all substantive requirements established by law and the Department concerning aggregated service. Accordingly, with the revised treatment of new customers approved herein, the Department approves Arlington's Plan. Within 14 days of the date of this Order, the Town shall file a revised Plan consistent with the treatment of new customers approved herein. Further, within 14 days of the date of this Order, the Town

shall file a revised exemplar opt-out notice and supplement to its public outreach and education plan consistent with the directives contained herein.

VII. ORDER

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

ORDERED: That, with the revised treatment of new customers approved herein, the municipal aggregation plan filed by the Town of Arlington is APPROVED; and it is

FURTHER ORDRED: That, within 14 days of the date of this Order, the Town of Arlington shall file a revised Plan consistent with the treatment of new customers approved herein; and it is

FURTHER ORDERED: That, within 14 days of the date of this Order, the Town of Arlington shall file a revised exemplar opt-out notice and supplement to its public outreach and plan consistent with the directives contained herein; and it is

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

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/s/  
Angela M. O'Connor, Chairman

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/s/  
Jollette A. Westbrook, Commissioner

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/s/  
Robert E. Hayden, 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.