**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF PUBLIC UTILITIES**

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| Investigation by the Department of Public Utilities on its own Motion into Establishing Guidelines for Municipal Aggregation Proceedings | ) ) ) | D.P.U. 23-67 |

**INITIAL COMMENTS OF NRG RETAIL COMPANIES**

Direct Energy Business. LLC; Direct Energy Services, LLC; Energy Plus Holdings, LLC; Green Mountain Energy Company, Inc.; NRG Home f/k/a Reliant Energy Northeast LLC; XOOM Energy Massachusetts, LLC (collectively, "NRG Retail Companies") hereby submit their comments in response to the Department of Public Utilities' ("Department" or "DPU") August 15, 2023 Order opening an investigation on its own motion into establishing guidelines for municipal aggregation proceedings ("*Municipal Aggregation Order*") and Notice of Investigation and Request for Comments ("Notice").

**Executive Summary**

As an active participant in municipal aggregation in Massachusetts since 2018, currently serving 22 programs—and soon to include the City of Boston—the NRG Retail Companies applaud the Department for undertaking this effort to codify standard guidelines and a template for use in the development and approval of municipal aggregation plans, along with a proposed process for expediting the review and approval of program plans. At the same time, the NRG Retail Companies encourage the Department to clarify that the door for innovation at the hands of municipal aggregations and their suppliers remains open, consistent with a statutory paradigm that allows for municipal aggregations to "facilitate the sale and purchase of electric energy *and other related services* including renewable energy credits,..." G.L. c. 164, § 134(a) (emphasis added). These services presently include the environmental attributes associated with renewable energy credits ("RECs") but they could and should come to also include distributed energy resources and demand-flexible technologies or operations that can help shape demand so as to work around volatile, expensive, and emissions-intensive supply

conditions. These technologies, which recently have been called Virtual Power Plants ("VPPs"), should have a clear place bundled into the offerings available to municipal aggregation customers, should a town or city wish it. Likewise, once advanced metering infrastructure is ubiquitously deployed, we should expect municipal aggregations to contemplate innovative rate designs that are time-varying in nature, or which offer rewards to customers for avoiding consumption when supply costs are high. The Department should likewise ensure its guidelines countenance these time-varying rates ("TVR").

In addition to outlining this proposal at a high level, the NRG Retail Companies will also address specific concerns around the Department's draft Guidelines (*Municipal Aggregation Order*, Appendix A) and draft Template Plan (*Municipal Aggregation Order*, Appendix B) for aggregation plans later in these Initial Comments.

## Comments

### I. The Department Should Take Steps to Encourage Value-Added Energy-Related Services in Municipal Aggregations

The NRG Retail Companies encourage the Department to embrace the opportunity to take this proceeding toward a higher policy ambition beyond the "nuts and bolts" of municipal aggregation business operations.

The Department should strongly consider allowing local governments the discretion and flexibility to offer a variety of energy-related services, including but also beyond RECs, in municipal aggregation programs, while also permitting energy providers to communicate with customers, which is often a necessary means to obtaining demand-related behavior that can mitigate supply costs. With over 1.2 million customers being served in the 177 municipal aggregation programs approved to date by the Department, municipal aggregation in Massachusetts provides a customer base of enormous scale for advancing the Commonwealth's energy efficiency and carbon reduction goals. The products and tools that could be made available cost-effectively to customers range from the simple, such as online account management apps on their mobile devices to hardware-based VPPs. This approach can offer numerous benefits to both consumers and the Commonwealth's overall energy policy goals, including:

**Customer Choice and Empowerment:** Allowing local governments to provide a variety of energy services within municipal aggregation programs empowers consumers by giving them more choices. This can include options like renewable energy sources, energy efficiency programs, and even community solar initiatives.[1] When consumers have more options, they can make choices that align with their values and priorities, fostering a sense of empowerment rather than as passive participants.

**Local Control:** Trust the local officials. They are directly accountable to their constituents. Local governments are often better attuned to the unique needs and preferences of their communities. Allowing them to offer access to a variety of energy-related services enables decisions that are more closely aligned with local values and priorities.

**Clean Energy Technology Adoption:** Giving local officials the discretion to add new options to programs without a lengthy additional review by the Department can prioritize the adoption of multiple clean and renewable energy options, especially emerging technologies, with the added benefit of reducing greenhouse gas emissions.

**Cost Savings:** Innovative rate design, bundled options with on-bill financing, and energy efficiency measures and incentives offered through municipal aggregation programs can help consumers reduce their energy consumption and lower their bills, with the potential for alleviating financial burdens for low-income households.

**Resilience and Reliability:** By diversifying energy resources and services, communities can increase their resilience in the face of energy disruptions. Virtual power plants can aggregate distributed energy resources like battery storage and actionable usage management devices such as smart thermostats to enhance grid resilience by peak shaving and load balancing. Attachment A to these Initial Comments is a one-page case study of the residential customer virtual power plant program deployed by one of NRG's retail brands, Reliant, which is achieving demand response engagement through thermostat adjustment. The Department will be familiar

[1] The NRG Retail Companies understand that the Department is currently looking at issues associated with using municipal aggregation as a vehicle for providing the benefits of community solar and low-income community solar in D.P.U. 20-145. Nonetheless, the NRG Retail Companies take the opportunity here to identify community solar as one of the potentially significant benefits of expanding choice through municipal aggregation.

with *ConnectedSolutions*, which traditionally runs through the electric distribution companies, but at least in one instance is administered by a municipal aggregation, the Cape Light Compact. However, *ConnectedSolutions'* smart thermostat program only operates in relation to reducing system peak load. By allowing a municipal aggregation's supplier to operate VPPs through retail offerings, as in conjunction with or as a supplement to a distribution-funded program like *ConnectedSolutions*, the value of avoiding volatile, expensive, and high-emissions energy can be captured—just as Reliant has done in its thermostat program.

**Personal Power:** Certain towns may also want to offer affordable backup power solutions that enhance reliability during extreme weather events or emergencies. As an example, Goal Zero, a subsidiary of NRG Energy, Inc., offers a variety of personal power products that can be included in program options.

**Customer Engagement:** Opening the lines of communication for energy providers to communicate directly with customers fosters greater customer engagement. Consumers can provide feedback, ask questions, and actively participate in shaping the energy services available to them.

Municipal aggregation programs can drive innovation in the energy sector by encouraging the adoption of cutting-edge technologies. By offering these services through local governments, residents and businesses have direct access to information, support, and incentives. This can lead to higher customer engagement and participation in energy conservation efforts. This, in turn, can foster Massachusetts' reputation as a hub for clean energy innovation.

## II. While the Department's Proposal to Establish Timelines for Review and Approval of Aggregation Plans is a Significant Step in the Right Direction, the Department Should Not Memorialize Requirements that Go Beyond the Statute and Have Operated to Stifle Innovation by Municipalities to the Detriment of Aggregation Customers

The NRG Retail Companies commend the Department for proposing Guidelines that will go a long way toward addressing the extensive and "unacceptable backlog of applications pending at the Department". *See Municipal Aggregation Order* at 2.

When municipal aggregation plans are not reviewed and approved by the Department in a timely manner, municipalities miss out on meaningful market opportunities to access products and services that benefit their citizens. This became readily apparent in the winter of 2022-2023 when basic service prices in Massachusetts soared and numerous cities and towns were left without any competitive options for their citizens because proposed municipal aggregation plans were stuck in regulatory limbo.

The NRG Retail Companies recognize that the Department's proposal to issue decisions on municipal aggregation plans on a timelier basis -- within 120 days for those cities and towns that qualify for expedited review of their plans, and within 180 days for those municipalities that do not request expedited review -- will provide some much-needed certainty to the overall process. However, in the same Order in which the Department proposes to establish timelines for review of municipal aggregation plans, the Department also announces its plans to memorialize procedural and substantive requirements that it has adopted over the last several years in its review of individual plan proposals -- requirements, which for the most part, go far beyond the Department's statutory role in reviewing these plans and have operated to make it more difficult for municipal aggregators and suppliers to work together to benefit aggregation customers. Simply put, over the last several years, the DPU has moved from a series of earlier decisions which appropriately left it to municipalities to identify competitive options and administer their plans in the best interests of their citizens to more recent orders which leave little or no discretion to cities and towns. This sea change in the Department's approach to municipal aggregation has had a chilling effect on the ability of cities and towns to attain the objectives of G.L. c. 164, § 134(a), access competitive options on behalf of their customers, and support critical environmental objectives.

Here, it is important for the NRG Retail Companies to state that not all requirements and directives set out in recent Department municipal aggregation orders are problematic. Like all utility customers in Massachusetts, municipal aggregation customers must fully understand the products and services that are being accessed on their behalf, what it means to opt-out or opt-in to products, and when an aggregation product, price or provider is changing. Similarly, any notices and educational materials should be clear and understandable with all deadlines appropriately highlighted and be meaningful to customers with limited English proficiency and other language access needs. *See Municipal Aggregation Order*, Guidelines (Appendix A at 2, 15-16). Indeed, many of the steps taken by the Department in recent municipal aggregation orders to protect consumer interests are warranted and should be memorialized in Guidelines going forward.

If anything, the Department's appropriate emphasis on customer education and notice should *make it easier* for the Department to step back and allow municipalities to focus on the business of developing electricity supply offerings that are consistent with their approved aggregation plans and customized to meet the unique needs of their residents and businesses. With clear notice requirements in place, municipalities can work with suppliers to access the kinds of products and services that meet customers' price and environmental goals. Customers will be apprised of new and modified products in advance of implementation -- and those customers will have adequate time to assess and decide if they are interested in any new or updated products – without time-consuming and unnecessary plan amendments and Department reviews of said amendments which often end up depriving customers of timely market solutions.

But appropriate educational materials and understandable notices need not be paired with rules that preclude municipalities from accessing competitive options for the benefit of their citizens. Again, it is important for the NRG Retail Companies to note that the municipal aggregation statute, G.L. c. 164, § 134(a), does not require micro-management by the Department of municipal aggregation plans, and for many years, the Department read the statute in that way. In Petition of the *City of Lowell*, D.P.U. 12-124, at 26, 28 (2013) ("*Lowell Aggregation Decision*"), the Department acknowledged that its "regulatory authority over

aggregations and the competitive market is more limited than its authority over local distribution companies", and that "the operations of a municipal aggregation program are ultimately overseen by municipal officials." In recent years, however, the Department's orders have taken more and more authority away from municipalities in developing and operating its plans - all to the detriment of aggregation customers. As municipalities have attested in comments filed in this proceeding to date,[2] requiring Department approval of every new product or plan modification will severely limit municipalities' flexibility, lead to missed market opportunities, and hinder innovation. *See* Town of Lee Comments at 4-5 (September 18, 2023); Town of Stoughton Comments at 4-5 (September 20, 2023); Town of Franklin Comments, at 4-5 (October 3, 2023).

And, indeed, the most important feature of municipal aggregation is that it affords towns and cities the opportunity to access market solutions that address cost and environmental goals. Notably, G.L. c. 164, § 134(a) was enacted as part of the Electric Restructuring Act of 1997, a law designed by the General Court to "encourage innovation, efficiency, and improved service from all market participants, and … enable reductions in the cost of regulatory oversight". Moreover, the Restructuring Act was based on the premise that "the primary elements of a more competitive electricity market will be customer choice, preservation and augmentation of consumer protections, full and fair competition in generation, and enhanced environmental protection goals". St. 1997, c. 164, § 1(f) and (l). Over time, however, Department decisions regarding municipal aggregation plans have become increasingly divorced from the objectives and benefits of the competitive electricity market and the Restructuring Act itself. While there is real value in those portions of the draft Guidelines which shorten review timelines and add uniformity and certainty to the review process, this proceeding also offers the Healey Administration and this Department's Commissioners a meaningful opportunity to question whether it is wise to memorialize the often burdensome requirements and directives of recent years, and to consider instead that this may be exactly the right time to change course and refocus on the key principles of the Restructuring Act. By taking

[2] The NRG Retail Companies will address all initial comments filed in this proceeding, including the initial comments filed by municipalities to date, in their reply comments due on November 6, 2023.

this opportunity to reset and once again allowing municipalities to develop customized plans for their citizens which enable access to competitive products in a nimble and flexible manner, the Department can ensure that aggregation customers reap the benefits of a competitive electricity market envisioned by the Restructuring Act without sacrificing customer education or consumer protection.

Finally, while it is imperative that the Department use this opportunity to reset its priorities to empower municipalities to provide innovative, climate-friendly products to aggregation customers, the NRG Retail Companies also urge the Department to view this proceeding as the appropriate vehicle to facilitate a municipality's ability to offer rate designs that are time-varying in nature or which offer rewards to customers for avoiding consumption when supply costs are high. For now, neither the Draft Guidelines (Appendix A) nor Draft Template (Appendix B) address TVR. In *NSTAR Electric Company/Massachusetts Electric Company and Nantucket Electric Company/Fitchburg Gas and Electric Light Company*, D.P.U. 21-80-B/21-81-B/21-82-B, Order on New Technologies and Advanced Metering Infrastructure Proposals at 329 (2022) ("*2022 Grid Modernization Order*"), in approving the electric distribution companies' plans for Advanced Metering Infrastructure ("AMI"), the Department recognized "the important role that competitive suppliers, including municipal aggregations, can play in promoting price-responsive usage." Indeed, as directed by the Department, "AMI deployment strategies that may expedite the ability for competitive suppliers to offer TVR products" are among the issues to be considered by the AMI Stakeholder Group created as a result of the *2022 Grid Modernization Order*. Id. at 327. In this proceeding, the Department should ensure that when AMI technologies have been deployed consistent with any future Department requirements, municipal aggregators will be able to offer time-varying rates without unnecessary, time-consuming reviews.[3]

[3] In the *2022 Grid Modernization Order*, the Department noted that municipal aggregations that seek to offer TVR would need approval of a revised municipal aggregation plan that sets forth how the aggregation intends to set its rates. *2022 Grid Modernization Order* at 329, n.137. As discussed in Section VI, infra, if a municipality's new prices or product offerings are consistent with an approved plan, after providing appropriate notice to customers, a city or town should be able to move forward with those offerings without additional Department review.

In the sections that follow, the NRG Retail Companies address specific provisions of the Department's draft Guidelines.

## III. The Department's Proposal to Require Municipal Aggregation Plans to Include a Proposed Date for Program Launch Will Only Further Constrain Municipalities and Limit Options

In its Order opening this investigation, the Department proposes a new rule (Draft Guideline IV.B.1) requiring municipalities to propose a fixed launch date for their municipal aggregation programs. Specifically, under the new rule, a proposed municipal aggregation plan must include an intended launch date, assuming Department approval within specified timeframes -- for municipalities seeking expedited review, the intended launch date should assume Department approval within 120 days of the date of filing and for municipalities not seeking expedited review, the proposed launch date should assume Department approval within 180 days of the date of filing.[4] Moreover, if a municipality determines after Department approval of its plan that it cannot implement its program on the designated launch date, that municipality must (1) notify the Department and the relevant electric distribution company, at least 60 days prior to the designated date, that it does not intend to launch on the selected date, and (2) propose a new launch date no sooner than six months after the original proposed date. *Municipal Aggregation Order* at 7.

In the event the Department itself does not approve a municipal aggregation plan within the specified timeframe, the municipal aggregation will be able to update the proposed launch date. *Municipal Aggregation Order* at 7. After Department approval, however, if a municipality determines it will not launch its program on the designated date in its plan, as noted above, the municipality must (1) notify the Department and the relevant electric distribution company that it does not intend to launch as scheduled, and (2) propose a new launch date no sooner than six months after the original proposed launch date. *Municipal Aggregation Order* at 7, Draft Guideline IV.B.1.2 (Appendix A at 11).

[4] In the case of municipality seeking approval of a plan on a non-expedited basis, the Department will ask the municipality to update the proposed launch date upon approval of the plan. Draft Guideline IV.B.1.1.2 (Appendix A at 11).

The Department has indicated that the proposed launch date requirement is necessary because of "the increasing impact of the uncertainty municipal aggregation commencements are having on basic service rates and procurement".[5] *Municipal Aggregation Order* at 6-7.

The requirement that a municipality designate a launch date as part of its initial aggregation plan proposal essentially asks a city or town to predict market conditions months in advance of seeking competitive bids. A well-timed launch date – one that maximizes the likelihood that a municipality will be able to access favorably priced products -- is highly dependent on market conditions. As noted by some municipalities, it is nearly impossible for a community to designate a future date that will be favorable for launching a program. *See* City of Pittsfield Comments at 2 (September 18, 2023); Town of Lee Comments at 4 (September 18, 2023). And, if a municipality ultimately foregoes its designated launch date because favorable market conditions are not present, the Department's draft Guidelines require the municipality to propose a new launch date no sooner than six months after the original proposed date (Draft Guideline IV.B.1.2 (Appendix A at 11)). The proposed six-month wait for a new launch date is especially prejudicial to municipalities. While the NRG Retail Companies recognize that in some instances, the uncertainty associated with the migration of a large number of basic service customers to an aggregation product may increase the risk perceived and prices bid by basic service suppliers, the Department's proposed launch date requirement in its current form shifts all of the market risk to municipalities by asking them to predict a single launch date far in advance of seeking bids – and lose out on competitive market options for at least six months if they "guess wrong" with respect to a proposed launch date.

In order to apportion risk more fairly, at most the Department should require a municipality to include an *estimated* launch date as part of its aggregation plan proposal with the caveat that said estimate is subject to market conditions. In the scenario where the municipality can demonstrate to the Department that it chose not to commence its aggregation plan on the estimated launch date because of market conditions, the municipality should be

[5] Here, the Department noted that "[T]he growth of municipal aggregation programs, coupled with and the uncertainty of program start dates, are known factors that have increased the basic service load risk." *Municipal Aggregation Order* at 6.

allowed to submit a revised launch date. In the alternative, the Department should allow all municipalities – and not just municipalities seeking expedited review of an aggregation plan (*see* Draft Guideline IV.B.1.1.2) -- to update their launch dates at the time of Department approval of a plan. All municipalities should be able to assess market conditions and designate a launch date at the same stage in the process. The ability to access competitive electricity prices more effectively should not be reserved to those municipalities that choose not to seek expedited plan review.

## IV. The Department's Prohibition on a Competitive Supplier's Communication With Eligible Customers is Too Broad and Will Deprive Aggregation Customers of Beneficial Ancillary Products Which Do Not Interfere With the Aggregation Product

The Department's Draft Guideline IV.A.7 (Appendix A at 10) provides as follows:

> The competitive supplier may only communicate with Program participants and/or use the lists of Eligible Customers and Program participants to send Department-approved educational materials, Opt-Out Notices, or other communications essential to the operation of the Program, and such lists may not be used by the competitive supplier to market any additional products or services to eligible customers or Program participants.

Indeed, this type of requirement consistently has been included in recent Department orders approving municipal aggregation plans. *See Town of Weston et al*, D.P.U. 20-99/21-27/21-36/21-55, at 32 (2023); *Town of Burlington et al*, D.P.U. 19-56/19-63/19-111, at 32 (2023).

At the outset, the NRG Retail Companies agree that a Competitive Supplier should not use lists of Eligible Customers and Program participants to offer products and services that compete with the aggregation product in any form or manner. Moreover, the Competitive Supplier should not use these lists under any circumstances absent collaboration with and review and consent by the municipality.

As proposed, however, Guideline IV.A.7 prevents aggregation customers from receiving communications regarding products and services designed to complement the aggregation product and improve the overall customer experience. NRG's online account management app is one such example. The online account management (OAM) is a self-service tool that gives customers all the information they need or desire in one place. Customers can manage their

energy account, check usage, pay bills, access educational information and energy savings tips from their devices. The app is not a cost item for customers. However, these types of apps could be viewed as a "product" or "service" under draft Guideline IV.A.7, even though NRG's account management app in no way would interfere with or disrupt – and only would enhance – the customer's use and enjoyment of the Department-approved aggregation product.

As proposed, this draft Guideline would operate to stifle innovation and prevent a municipal aggregation customer from accessing an ancillary product that could be obtained if he or she were a direct customer of NRG as a competitive supplier. Such an outcome seems counterintuitive and runs afoul of the very premise of the Restructuring Act. The Department should clarify that a competitive supplier's communication with eligible customers and program participants regarding ancillary products is allowed under certain conditions as described below.

Here again, the NRG Retail Companies fully understand that any communication by a Competitive Supplier to an eligible customer or program participant regarding a product that does not interfere with the aggregation product must be clear, understandable, and accessible to customers with limited English proficiency and other language access needs. The communication would need to unequivocally state that acquisition of such a product in no way would impact the price, term, or any other aspect of the aggregation product (whether an Opt-Out or Opt-In aggregation product). Moreover, no communication regarding an ancillary product should be sent to an eligible customer or program participant without review and consent by the municipality.

## V. The Department's Guidelines Should Be Revised to Confirm that All Medium, Large and Very Large Commercial and Industrial Customers That Enroll After Program Launch May Be Offered a Market-based Price by the Competitive Supplier

The Department's draft Guidelines and draft Template recognize that larger customers, *i.e.*, medium, large, and very large commercial and industrial (C&I) customers that enroll after program launch, can be offered a market-based price by the supplier rather than the program price. Specifically, Draft Guideline IV.C.1.2.2.3.1 (Appendix A at 13) provides as follows:

> The Department does allow Municipal Aggregators to offer large commercial and industrial customers a market-based price instead of the Program's contract rate

if the large commercial and industrial customer previously opted out of the Program or was not considered an Eligible Customer.

Moreover, the draft Template makes clear that after initial program launch, a competitive supplier can offer a market rate "based on then-current wholesale prices and competitive supplier costs" to any medium, large or very large C&I customers, *i.e*., (a) customers identified after Program launch (a New Eligible Customer); (b) customers who opted out and later want to enroll; and (c) customers who were on third party supply at Program launch and later want to enroll in the Program after their supply contract ends. *See Municipal Aggregation Order*, Draft Template Plan (Appendix B at 18-19).

In setting out these exceptions in the draft Guidelines and draft Template, the Department has recognized that medium, large, and very large C&I customers that enroll after program launch present a unique risk to municipalities and the competitive suppliers that serve them. These larger customers typically are sophisticated with respect to electricity markets and often have the resources to retain energy consultants who help them navigate those markets and secure the most advantageous contracts. If a competitive supplier were required to offer a medium, large, or very large customer the program price after that customer initially opted-out of program pricing or upon that customer leaving a competitive supplier, the Department would be inviting these customers to "game" the system. Moreover, any regulatory scenario that allows such gaming ultimately would lead to higher pricing for residential and small commercial customers because any competitive supplier seeking to serve that municipality would need to include a high risk premium in its overall aggregation bid. Requiring municipalities through their competitive suppliers to offer the program price to these larger customers after program launch essentially allows these customers to enjoy the benefits of choosing from a wide range of options without any risk. As long as the Department remains committed to allowing competitive suppliers to offer market rates to medium, large, and very large C&I customers who seek to enroll in an aggregation plan after program launch, competitive suppliers can appropriately manage their risk to the benefit of residential and small commercial customers.

Notably, one provision in the Department's draft proposal, Guideline IV.C.1.2.2.3.2, is at odds with the Department's overall approach to larger C&I customers seeking to enroll after program launch. Draft Guideline IV.C.1.2.2.3.2 provides as follows:

> If the Municipal Aggregator advertises its Program prices for a customer class, including on the Department's Energy Switch website, the Municipality must honor its advertised price to all customers that seek to enroll in the Program regardless of whether the Municipality's Plan provides the Municipality the option to offer an alternative price.

While this proposed Guideline provision makes sense with respect to residential and small C&I customers, it could be read as requiring a competitive supplier to provide the program price to a medium, large, or very large C&I customer that seeks to enroll after program launch – a requirement that appears to be wholly inconsistent with other proposed Guideline and Template provisions which address these larger customers.

First, any advertising of a program price for larger C&I customers which does not clearly indicate that customers who seek to join the aggregation after market launch would be offered market-based pricing clearly would be in error. Second, to the extent that such an error is made by the municipality, the significant costs associated with the municipality's error would be fully and unfairly borne by the competitive supplier. Importantly, a competitive supplier has no control over a municipality's advertising or what a city or town submits for inclusion on the Department's Energy Switch website. In the unlikely event that such an error occurs, the solution would be to work with the municipality to effect a correction and to take steps to minimize similar errors going forward – not to require a supplier to serve a large customer that the supplier did not anticipate serving at a below-market price. Accordingly, the NRG Retail Companies respectfully request that the Department revise Guideline IV.C.1.2.2.3.2 consistent with these comments.

## VI. The Department's Proposed Template Should Be Revised to Allow a Municipality to Indicate its Interest in Developing and Offering Innovative Products Beyond Different Levels of Renewable Energy Credits

As discussed above, consistent with G.L. c. 164, § 134(a), services offered to municipal aggregation customers should extend beyond electricity and RECs to encompass distributed

energy resources and demand-flexible technologies or operations that can help shape demand. Indeed, allowing municipalities to indicate their interest in these products in proposed plans is more than just consistent with the statute -- it is imperative if Massachusetts intends to meet its ambitious climate change goals.

The NRG Retail Companies acknowledge that not every municipality will be interested in offering this wide range of products, but those cities and towns that are interested should be able to express that interest in their aggregation plans. Moreover, if a city's or town's new product offerings are consistent with an approved plan, after providing appropriate notice to customers, a city or town should be able to move forward with those offerings without additional Department review.

Unfortunately, the Department's proposed Template (Appendix B) contemplates that a city or town will offer only energy and RECs to aggregation customers. As an example,[6] Section I.B of the Template Plan requires a city or town to

> Adequately describe each product with sufficient specificity, such as the objectives of each product with respect to price and renewable energy content, including the amount of renewable energy content to be offered, and clearly identify the type of additional renewable energy content each product will contain. (Draft Template Plan (Appendix B at 2-3)).

This requirement should be revised to require a municipality to more broadly describe the types of products it intends to offer, including renewable energy content and other energy related services, such as distributed energy resources and demand-flexible technologies – and not limit a municipality's offerings to energy and RECs.

Similarly, Section I.B of the Template Plan provides as follows:

> For expedited review, one product's renewable energy content must be equivalent to Basic Service, and the municipality may offer one additional

[6] In identifying specific provisions in the Draft Template, the NRG Retail Companies do not mean to suggest that other provisions in the Draft Guidelines and Draft Template are acceptable as proposed. Rather, consistent with these Initial Comments, the Department should remove or modify those provisions in the Draft Guidelines and Draft Template which limit a municipality's ability to move forward with changes in price and products that are consistent with an approved plan.

product that may contain a specified level of additional renewable energy content. (Draft Template Plan (Appendix B at 2-3)).

The NRG Retail Companies question why the Department would establish a guideline or any procedure which incentivizes municipalities to narrow customer choice. Again, a municipality's aggregation plan should broadly describe the types of products it intends to offer, including different levels of RECs and distributed energy resources/demand-flexible technologies, and municipalities should be able to proceed with product offerings consistent with those plans without additional Department review. Expedited review of plans should not be dependent on limiting customers to minimal options.

## VII. To the Extent that the Department Requires Municipalities to Seek Department Approval of New or Revised Products, the Department's Review Should be Streamlined and Completed within Thirty Days

As set forth above, consistent with G.L. c. 164, § 134(a) and the Restructuring Act, municipalities are in the best position to identify competitive options and administer their aggregation plans to meet the unique needs of their residents and businesses. While the aggregation plan should explain in detail how a municipality plans to administer its program, select products, set rates, and enter and terminate contracts, once that plan has been approved by the Department, a city or town should be afforded the discretion to select and offer new or revised products to municipal customers consistent with the notice and education requirements set out in the Department's Guidelines and the municipality's approved plans.

The Department's draft Guideline IV.D.1 sets out the requirements for amended plans, including the need for DPU review of an amended plan, but offers little information or detail regarding the timing of that review. Draft Guideline IV.D.1 also provides a list of scenarios which would trigger the requirement that a municipality submit an amended plan for Department review, including when the municipality seeks to make a new product available to program participants, such as when "the Municipality seeks to change the Renewable Energy Certificate content of its Default Product."

Again, it is the view of the NRG Retail Companies that the introduction of a new or revised product that is consistent with an approved plan should not require the filing of an

amended plan. However, if the Department determines that such review is necessary, at a minimum, the Department should streamline its process and complete any such review within 30 days. If a municipality is required to wait 180 days – or even 120 days – for Department approval of a new or revised product, there is real risk that the municipality will miss out on favorable market conditions for offering that product. In the end, the specter of going through a lengthy and costly Department process likely will lead municipalities to forego innovative new products altogether.

## Conclusion

Implemented thoughtfully, municipal aggregation offers Massachusetts energy customers an opportunity to access lower electricity prices, price stability, and a wide range of innovative products and services. Giving local governments the discretion and flexibility to work with their suppliers to offer a variety of energy-related services in municipal aggregation programs, including products and services such as energy efficiency and VPPs, represents a proactive and forward-thinking approach to addressing energy challenges in Massachusetts. It promotes sustainability, cost savings, grid resilience, and community empowerment, all while aligning with the Commonwealth's broader environmental and energy policy goals. The NRG Retail Companies respectfully encourage the Department to embrace the full potential of municipal aggregation through this proceeding.

The NRG Retail Companies appreciate the opportunity to provide comments in this proceeding and looks forward to participating further in any manner allowed by the Department.

Respectfully submitted,

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# NRG Residential Virtual Power Plant (VPP): A Reliant Case Study

As the leading state in both energy production and consumption, Texas must find a way to overcome high energy demand while facing rapid population growth. Historically, the focus has primarily been on the supply side of energy generation to meet growing demand. Today, Texas has the opportunity to harness residential demand-side management (DSM) and distributed energy resources (DERs) to form virtual power plants (VPPs) to help better manage the grid while supporting reliable and affordable power to all customers. So how does it work?

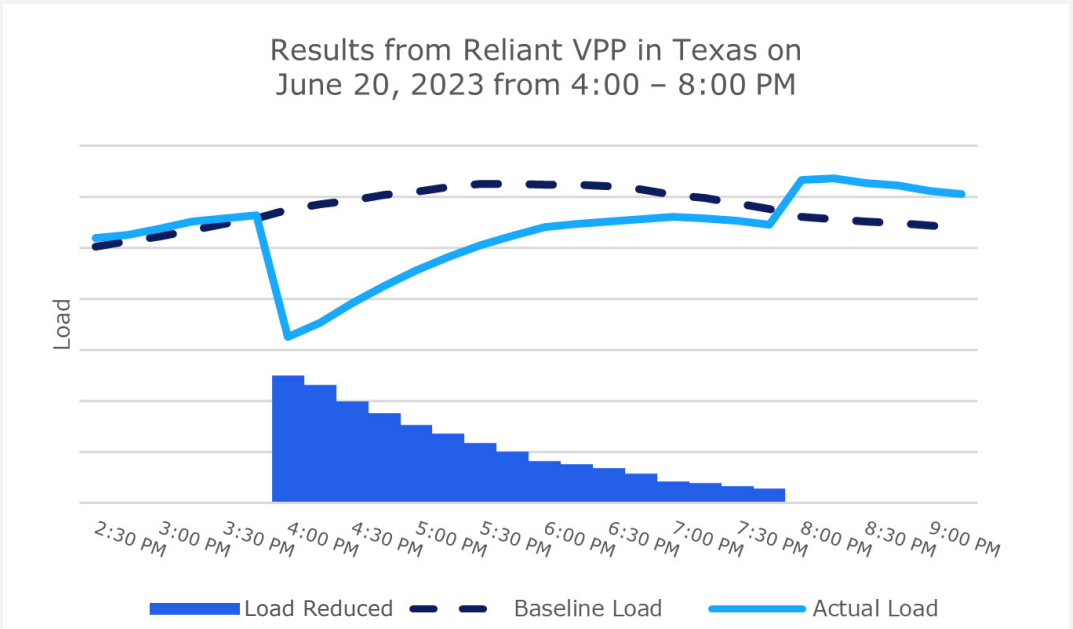
## HARNESSING THE POWER OF RESIDENTIAL VIRTUAL POWERPLANTS (VPPS)

**For several years, Texas electric customers have been able to shop for retail plans that include or leverage smart thermostats.** These plans help manage electricity costs while also curtailing usage without perceptible loss of comfort and giving customers a right to override the thermostat's automatic setting.

For one of NRG's retail brands, Reliant, this demand response (DR) engagement through thermostat adjustment occurs in one of two ways:

1. Direct Load Control: Average 20-30% reduction in customer demand during the period thermostat is controlled.
2. Behavioral DR: Customers who actively participate lower their demand by approximately 10-15%.

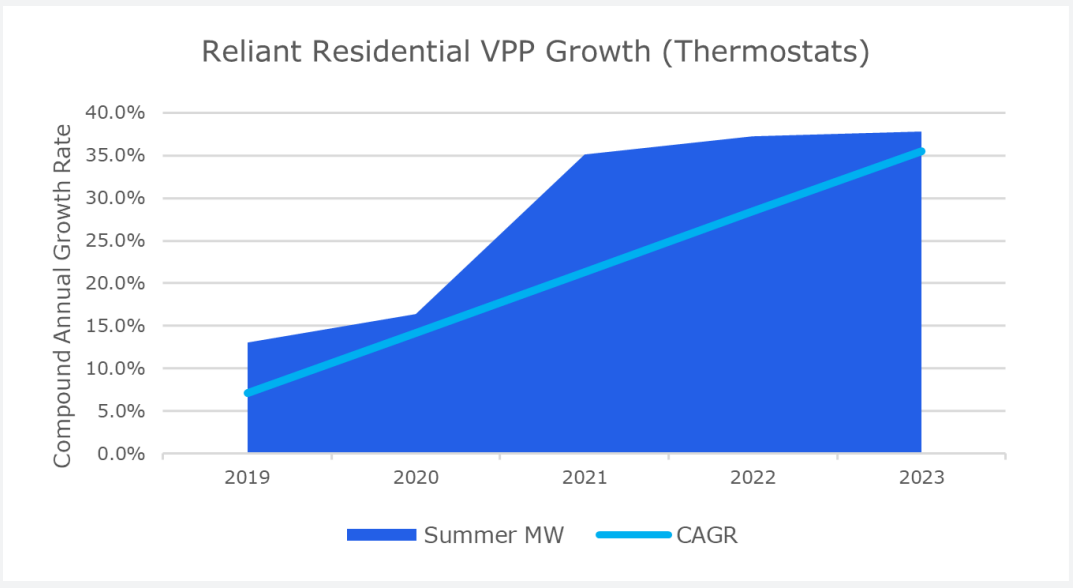
With Direct Load Control, customers that participate in an event shave an average of 1 kW over a three-to-four-hour period. So, if 1,000 customers participated, there is the potential for a ~1 MW total reduction in demand when deployed.




## VPP GROWTH & RELIABILITY

In Texas, ERCOT manages the flow of electricity to more than 26 million customers - about 90% of the state's electric load. And about 7 million of those are residential customers who live in areas of the state open to retail competition. **Reliant's standalone thermostat VPP (excluding other devices & services) has grown nearly 40% in four years.**

In addition to smart thermostats, which interact with the largest source of residential load (HVAC), customers are increasingly adopting DERs like battery storage.




A customer in a detached single-family home that has smart HVAC controls paired with battery storage can reduce demand by up to 40-100% (on average) over a four-hour period, depending on the size of their battery.

As technology is more widely adopted across ERCOT, aggregated flexible load across millions of homes dispatched specifically for reducing peak demand will be capable at scale. This creates a meaningful reduction of demand during peak summer and winter days and decreases strain on the grid caused by extreme weather events or renewable intermittency.

**Creating VPPs through increased adoption and orchestration of home energy management technologies will increase load flexibility, contributing to ERCOT grid reliability while also giving customers a higher level of resiliency.**