



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 18-36

September 20, 2018

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

APPEARANCES:

Paul W. Gromer, Esq.
Paul W. Gromer, LLC
85 Merrimac Street, 3rd Floor
Boston, Massachusetts 02114
FOR: CITY OF NEWTON
Petitioner

I. INTRODUCTION AND PROCEDURAL HISTORY

On March 30, 2018, the City of Newton (“City”) filed with the Department of Public Utilities (“Department”) a petition for approval of a municipal aggregation plan, pursuant to G.L. c. 164, § 134. On June 21, 2018, the City filed a revised municipal aggregation plan (“Plan”) (Exh. DPU 1-11, at Att.).¹ Under the Plan, the City will establish a municipal aggregation program (“Program”) through which the City 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. 18-36.

On April 5, 2018, the Department issued a Notice of Public Hearing and Request for Comments. On May 16, 2018, the Department conducted a public hearing.² The Attorney General of the Commonwealth (“Attorney General”) filed comments on May 16, 2018. On June 21, 2018, the City filed its responses to the Department’s first set of information requests.³

¹ All references to the Plan herein are to the revised Plan and exhibits thereto filed on June 21, 2018, in response to Information Request DPU 1-11.

² 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.

³ On its own motion, the Department moves the City’s responses to Information Requests DPU 1-1 through DPU 1-19 into the evidentiary record in this proceeding.

II. SUMMARY OF THE PROPOSED PLAN

The City has retained Peregrine Energy Group and Bay State Consultants as its consultants (together, “Consultants”) to develop, implement, and manage the Program (Plan at 3). The City and Peregrine Energy Group developed the Plan in consultation with the Department of Energy Resources (“DOER”) (Petition at 2, Exh. 3). The City’s Mayor 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 3, 7).

Under the Plan, the City will issue a request for proposals to solicit bids from competitive suppliers for firm, all-requirements electric power supply (Plan at 3, 7; Petition, Exh. 2, at 4, 9). Prices, terms, and conditions for electric supply may differ among customer classes (Plan at 6). The City will launch the aggregation when it obtains bids that meet the criteria set by the City (Plan at 4).

The City intends to offer a standard product that includes renewable energy certificates (“RECs”) in an amount greater than the minimum Massachusetts Renewable Portfolio Standard (“RPS”) requirements (Plan at 1). In addition, the City intends to offer an optional product that includes a higher number of RECs than the standard product, up to 100 percent of customers’ metered consumption, as well as an optional product that includes a number of RECs equal to the minimum RPS requirements (Plan at 1).

After executing a contract for electric supply, the City, 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 4-5; Petition, Exh. 2 at 11-14). The

notification process will include direct mailings, newspaper notices, public service announcements, website postings, social media, and the posting of notices at the City Hall (Plan at 4-5; Petition, Exh. 2, at 12).

The City 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 being exposed (Plan at 5; Petition, Exh. 2, at 12). The competitive supplier will bear the expenses relating to the opt-out notice (Petition, Exh. 2, at 12). Those customers who do not opt out will be automatically enrolled in the Program (Plan at 5; Petition, Exh. 2, at 11). 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, 7, 9; Petition, Exh. 2, at 12).

Program participants will receive one bill from the local electric distribution company, NSTAR Electric Company d/b/a Eversource Energy (“Eversource”) that will include the competitive supplier’s generation charge(s), including the costs of RECs, and Eversource’s delivery charge (Plan at 7). The generation charge(s) will also include a \$0.001 per kilowatt hour (“kWh”) administrative adder that will be used to compensate the City’s Consultants for the development and implementation of the Program, including their provision of ongoing services such as (1) managing the supply procurement, (2) providing customer support, (3) monitoring the then-current supply contract, and (4) interacting with Eversource (Plan at 6; Petition, Exh. 2, at 38).

The City requests a waiver, on its behalf and on behalf of its competitive supplier, from the information disclosure requirements contained at 220 CMR 11.06, which require competitive suppliers to mail information disclosure labels directly to customers on a quarterly basis (Petition at 2).⁴ As good cause for the waiver, the City states that it can provide this information as effectively as quarterly mailings and at a lower cost using means other than those specified in the Department's regulations, including press releases and postings on the Program's website (Petition at 2).

III. STANDARD OF REVIEW

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

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

A plan must include the following: (1) the organizational structure of the program, its operations, and its funding; (2) details on rate setting and other costs to its participants;

⁴ The disclosure label provides information regarding a competitive supplier's fuel sources, emission characteristics, and labor characteristics. 220 CMR 11.06.

(3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for termination of the program. G.L. c. 164, § 134(a). Municipal aggregation plans must be submitted to the Department for final review and approval. G.L. c. 164, § 134(a).

Participation in a municipal aggregation plan is voluntary and a retail electric customer has the right to opt out of plan participation. G.L. c. 164, § 134(a). Municipalities must inform eligible electric customers of (1) automatic plan enrollment and the right to opt out and (2) other pertinent information about the plan. G.L. c. 164, § 134(a); Municipal Aggregation Programs, D.P.U. 16-10, at 19 (2017).

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

A municipal aggregator is exempt from two requirements included in the Department's regulations concerning competitive supply. First, a municipal aggregator is not required to obtain a license as an electricity broker from the Department under 220 CMR 11.05(2) in order to proceed with an aggregation plan. City of Marlborough,

D.T.E. 06-102, at 16 (2007). Second, a municipal aggregator is not required to obtain customer authorization to enroll customers in the program pursuant to G.L. c. 164, § 1F(8)(a) and 220 CMR 11.05(4). D.T.E. 06-102, at 16. The opt-out provision applicable to municipal aggregators replaces the authorization requirements included in the Department's regulations. D.T.E. 06-102, at 16.

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

IV. ANALYSIS AND FINDINGS

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

1. Procedural Requirements

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

G.L. c. 164, § 134(a).⁵ The City provided a certificate from the City Clerk demonstrating local approval through an affirmative vote of the City Council with the approval of the Mayor prior to initiating the process of aggregation (Plan at Exh. A). Therefore, the

⁵ 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).

Department concludes that the City has satisfied the requirement regarding local governmental approval.

Second, a municipality must consult with DOER in developing its municipal aggregation plan. G.L. c. 164, § 134(a). DOER submitted a letter to the City on February 2, 2018 confirming that the City completed this consultation (Petition at Exh. 3). Therefore, the Department concludes that the City has satisfied the requirement to consult with DOER.

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

The City made the Plan available on its website on March 9, 2018 and it remained available through at least June 21, 2018 for citizen review and comment (Plan at 2; Exh. DPU 1-3). In addition, the City presented the Plan at a public meeting on March 28, 2018 (Plan at 2; Exh. DPU 1-3). Therefore, the Department concludes that the City has satisfied the requirement regarding citizen review.

Finally, a municipal aggregation plan filed with the Department shall include the following: (1) the organizational structure of the program, its operations, and its funding;

(2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for terminating the program. G.L. c. 164, § 134(a).

After review, the Department finds that the Plan includes each of these required components (Plan at 2-8; Petition at Exh. 2). Accordingly, the Department concludes that the City has satisfied all procedural requirements of G.L. c. 164, § 134(a).

2. Substantive Requirements

a. Introduction

Municipal aggregation plans must provide for universal access, reliability, and equitable treatment of all classes of customers. G.L. c. 164, § 134(a). In addition, municipalities must inform all eligible electric customers prior to their enrollment of their right to opt out of the program and disclose other pertinent information regarding the plan.⁶ G.L. c. 164, § 134(a); D.P.U. 16-10, at 19.

b. Universal Access

The Department has stated that the universal access requirement is satisfied when a municipal aggregation program is available to all customers within the municipality. City of Lowell, D.P.U. 12-124, at 44-46 (2013); D.T.E. 06-102, at 19; Cape Light Compact, D.T.E. 00-47, at 24 (2000). Under the Plan, all eligible customers in the City will be

⁶ The municipal disclosures must do the following: (1) prominently identify all program rates and 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).

enrolled in the Program unless the customer previously contracted with a competitive supplier or affirmatively opted out of the Program (Plan at 7-8; Petition, Exh. 2, at 9). New customers moving into the City will (1) initially be placed on basic service and (2) subsequently receive a notice informing them that they will be automatically enrolled in the Program unless they opt out (Plan at 8). Town of Lexington, D.P.U. 16-152, at 17 (2017). Finally, the Plan provides that customers may return to basic service at any time (Petition at 1; Plan at 1). After review, the Department concludes that the City has satisfied the requirements of G.L. c. 164, § 134(a) regarding universal access. See Town of Natick, D.P.U. 13-131, at 19-20 (2014); D.P.U. 12-124, at 45-46; D.T.E. 06-102, at 20.

c. Reliability

A municipal aggregation plan must provide for reliability. G.L. c. 164, § 134(a). The contract that the City 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 (Petition, Exh. 2, at 9, 17-19). In addition, the City will use the services of Consultants, who are licensed electricity brokers, to ensure that the City has the technical expertise necessary to operate the Program (Plan at 3). After review, the Department concludes that the City has satisfied the requirements of G.L. c. 164, § 134(a) regarding reliability. See D.P.U. 14-69, at 45; D.P.U. 13-131, at 20; D.P.U. 12-124, at 46.

d. Equitable Treatment of All Customer Classes

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

Here, the Plan allows for varied pricing, terms, and conditions for different customer classes (Plan at 6, 8-9).⁷ 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 City has satisfied the requirements of G.L. c. 164, § 134(a) regarding equitable treatment of all customer classes.

e. Customer Education

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

⁷ The customer classes in the Program will be the same as those used by the City's electric distribution company, Eversource (Plan at 9).

aggregations. As the Department continues to gain experience with the operation of municipal aggregation programs, it is fully anticipated that we will refine our position on the adequacy and clarity of consumer notifications. Town of Stoughton, D.P.U. 17-43, at 13 (2017). The City is required to adhere to any future directives in this regard.

The City's public outreach and education plan will provide, in multiple languages where appropriate, Program information to customers through the following: (1) general education, which will consist of public presentations, news and social media outreach, public notices and postings, a toll-free customer service number, and dedicated website and (2) a direct mail opt-out notice, which will inform customers of their rights under the Program, including their right to opt-out at any time without penalty (Plan at 4-5). The form of the City's revised exemplar opt-out notice filed on June 21, 2018, 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 5, Exhs. B-D). D.P.U. 13-131, at 26-27.

Pursuant to G.L. c. 164, § 134(a), the City must prominently identify all Program charges and include a full disclosure of the basic service rate. In this regard, the City's exemplar opt-out notice prominently identifies all Program charges, including the administrative adder that will be used to compensate the Consultants (Plan at Exh. B).⁸ In

⁸ In her comments, the Attorney General indicated she had expressed concern to the City regarding a statement in the original municipal aggregation plan filed on

addition, the Plan describes how Program charges will be set, including a description of any additional costs that could be imposed due to a change in law (Plan at 6-7, Exh. B).^{9, 10}

The Department notes that certain municipal aggregations may seek competitive supply rates that provide savings for participating electric customers compared to basic service rates. However, due to changes in market conditions and differences in contract terms, a municipal aggregation plan cannot guarantee customers cost savings compared to basic service over time. See D.P.U. 12-124, at 57-66. In addition, municipalities must fully inform customers about the plan, including the benefits and consequences of municipal

March 30, 2018, that the City “intends to seek additional funds for enhanced public education and engagement,” as the Attorney General contended the source of the additional funding was unclear (Attorney General Comments at 1; Petition, Exh. 1, at 6). The Department finds that the City has appropriately addressed the Attorney General’s concerns in the revised Plan filed on June 21, 2018, which now states the City “intends to seek additional funds from outside the supply contract for enhanced public education and engagement” (Plan at 6). The City further specified that the source of this funding will be municipal funds (Exh. DPU 1-12).

⁹ Should a change in law result in higher prices to the competitive supplier, the Plan provides that the City and the competitive supplier will negotiate a potential change in the Program price. Any resulting change in Program price will be announced through a media release, postings at City Hall, and a posting on the Program website at least 30 days prior to the implementation of the change (Plan at 7). The City shall inform the Director of the Department’s Consumer Division at least 14 days in advance of any such price change. Such notification must include copies of all media releases, City Hall and website postings, and other communications with customers regarding the change in price.

¹⁰ To ensure that customers are fully informed about the possibility of a Program price change due to a change in law, the City shall revise its opt-out notice to include the following sentence in the section where prices are identified: “Program prices could increase as a result of a change in law.”

aggregation. G.L. c. 164, § 134(a). This is true regardless of whether the primary purpose of the municipal aggregation is to provide savings to participating customers. Therefore, the Department has found that municipalities must clearly explain in a plan and all education materials distributed prior to program implementation that customers are not guaranteed cost savings compared to basic service. City of Gloucester, D.P.U. 16-101, at 13 (2017).

The City states that it developed the Program to “bring the benefits of renewable energy and electricity choice to its residents and businesses” (Plan at 1). Although the City does not use the word “savings” when comparing the Program prices to basic service or otherwise make references to “low-cost power” in the Plan, it does state that the Program is designed to give participants the “greatest amount of control over their electricity supply, both in terms of price and renewable energy”(Plan at 1). It is possible that one or more of the Program’s prices will be below the basic service price at the time a participant is enrolled.

In order to ensure that that customers are fully informed about the benefits and consequences of municipal aggregation, the City shall modify its Plan and education materials to clarify that savings are not guaranteed compared to basic service. The City shall revise its Plan at 1, Section I (Key Features), “Choice” to add language after the last sentence that “Savings cannot be guaranteed.” In addition, the City shall revise its opt-out notice to include the statement that, “There is no guarantee of savings over the full term of the contract with <SUPPLIER NAME> compared with Eversource’s Basic Service rate”

(Exh. DPU 1-11, Att., Exh. B at 1).¹¹ Finally, the City and the Consultants must ensure that all future communications and information regarding the Program (including, without limitation, mailings, advertisements, and website postings) contain a disclaimer that “savings cannot be guaranteed” in each instance where price is referenced, regardless of whether references to savings or price stability are included.¹²

In Town of Orange, D.P.U. 17-14, at 11-12 (2017), the Department determined that Program enrollments shall begin no sooner than 36 days after mailing of the opt-out notice. Such timing ensures that eligible customers have a full 30 days to opt out, plus an additional six days to account for mailing (i.e., three days for the opt-out notice to be delivered to the customer and three days for the opt-out document to be delivered to the competitive supplier through the mail). D.P.U. 17-14, at 12. The City’s Plan and exemplar opt-out notice are consistent with these directives (Plan at 10; Exhs. DPU 1-11, Att.; DPU 1-14).

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

¹¹ Such language shall appear following the sentence, “Price stability also makes the program different from many commercial offers that you may receive by mail or by phone” on the first page of the opt-out notice (Exh. DPU 1-11, Att., Exh. B at 1).

¹² The Department notes that the Consultants act as program consultants for several municipal aggregation programs in Massachusetts (see e.g., Town of Southborough, D.P.U. 17-19; Town of Lexington, D.P.U. 16-152; Town of Walpole, D.P.U. 16-155). In their role, the Consultants must ensure all of their communications with municipalities regarding municipal aggregation fully disclose that savings cannot be guaranteed.

document, consistent with the timing described above. D.P.U. 17-14, at 12. The Department has further found that such language must appear in a prominent location in color at the top of the first page of the opt-out notice as well as on the opt-out reply card, and it must inform eligible customers that they will be automatically enrolled in the Program unless they return postmark the opt-out document by the identified date.^{13, 14} D.P.U. 17-14, at 12. The City's exemplar opt-out notice and opt-out reply card are consistent with these directives (Plan at Exhs. B, D).

Finally, while G.L. c. 164, § 134(a) is silent regarding customer education after a customer is enrolled in a municipal aggregation program, the City 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 City's public education plan provides that ongoing education, including information regarding Program details, Program changes, and power supply sources, will continue through a dedicated

¹³ The Department has found that where the opt-out notice and reply card will be printed entirely in black and white, a municipality may include the language in bold black type in the specified locations, instead of in color. However, if the opt-out notice and reply card include color text, this language must be included in color. Town of Shirley, D.P.U. 17-21, at 12, n.11 (2017), citing D.P.U. 17-14, at 12.

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

Program website (Plan at 4, 6, 8).¹⁵ In addition, the public education plan provides that price changes will be announced in a media release and through the Program website (Plan at 6). The City will also maintain a toll-free customer information and support hotline (Plan at 3; Exh. DPU 1-6).

After review, and with the modifications to the Plan and opt-out notice required above, the Department concludes that the City has satisfied the requirements of G.L. c. 164, § 134(a) regarding customer education. The City shall submit a copy of the final opt-out notice and reply card to the Director of the Department's Consumer Division for review and approval prior to issuance.¹⁶ Town of Southborough, D.P.U. 17-19, at 14 (2017).

f. Conclusion

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

¹⁵ The City shall provide, at a minimum, basic information about the Plan in a prominent location on its website with appropriate links to the dedicated Program website.

¹⁶ The final opt-out notice should contain all relevant prices. The return postmark date may be left blank on the final opt-out notice and reply card if the date is not yet known. The final opt-out notice and reply card must also be filed in the instant docket, in a manner consistent with the Department's filing requirements. 220 CMR 1.02.

B. Waiver from Department Regulations Regarding Information Disclosure

General Laws c. 164, § 134 requires that a municipal aggregation plan meet any requirements established by law or the Department concerning aggregated service. In this regard, the City has requested a waiver, on behalf of itself and its competitive supplier, from the information disclosure requirements contained in 220 CMR 11.06(4)(c). The Department's regulations at 220 CMR 11.08 permit a waiver from these regulations for good cause shown. As good cause for the waiver, the City maintains that the competitive supplier can provide the same information more effectively and at a lower cost through alternate means (Petition at 2).

The City'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 the City's proposed alternate information disclosure strategy should allow the competitive supplier to provide the required information to its customers as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). Accordingly, pursuant to 220 CMR 11.08, the Department grants the City's request for a waiver from 220 CMR 11.06(4)(c) on behalf of itself and its competitive supplier.¹⁷ To maintain this waiver, as part of its Annual Reports to the Department (see Section V, below) the City must provide sufficient information to show that the competitive supplier has provided the same

¹⁷ This waiver is only for the City's Program. The competitive supplier must continue to adhere to the applicable provisions of 220 CMR 11.06 for its other customers.

information to Program participants as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). The City and its competitive supplier are required to adhere to all other applicable provisions of 220 CMR 11.06.

V. OTHER REQUIREMENTS

In addition to the requirements set forth in G.L. c. 164, § 134, as discussed above, the City shall comply with all additional requirements for municipal aggregations as set forth by the Department. See e.g., D.P.U. 14-69, at 29-30 (requirements for revising a municipal aggregation plan); D.P.U. 13-131-A at 10 (program pricing for customers that join a municipal aggregation program after initiation); D.P.U. 12-124, at 57-67 (prohibiting the practice of suspension); Town of Lanesborough, D.P.U. 11-27, at 24 (2011) (notice requirements to local distribution company).

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

opt-out notices and other correspondence with eligible customers and Program participants, copies of City Council meeting notices, minutes of any such meetings, and screenshot images of all relevant pages of the websites of the City and Consultants); and (8) copies of any complaints received by the City, the Consultants, or the competitive supplier regarding the Program. The City's first annual report shall be filed on or before December 1, 2018.

VI. CONCLUSION

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

VII. ORDER

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

ORDERED: That the municipal aggregation plan filed by the City of Newton, as revised on June 21, 2018, to be revised and amended consistent with the directives contained herein, is APPROVED; and it is

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

By Order of the Department,

 /s/
Angela M. O’Connor, Chairman

 /s/
Robert E. Hayden, Commissioner

 /s/
Cecile M. Fraser, Commissioner

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