



# The Commonwealth of Massachusetts

---

## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 18-63

March 15, 2019

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

---

APPEARANCES:

Paul Gromer, Esq.

Paul Gromer, LLC

85 Merrimac Street, 3<sup>rd</sup> Floor

Boston, Massachusetts 02114

FOR: TOWN OF WATERTOWN

Petitioner

## I. INTRODUCTION AND PROCEDURAL HISTORY

On June 29, 2018, the Town of Watertown (“Watertown”) 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 October 26, 2018, Watertown filed a revised municipal aggregation plan (“Plan”) (Exh. DPU 2-1, Att.).<sup>1</sup> Under the Plan, Watertown will establish a municipal aggregation program (“Program”) through which it 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. 18-63.

On July 23, 2018, the Department issued a Notice of Public Hearing and Request for Comments (“Notice”). On August 23, 2018, the Department conducted a public hearing.<sup>2</sup> On September 11, 2018, and on October 26, 2018, Watertown filed responses to the Department’s first and second set of information requests, respectively.<sup>3</sup>

---

<sup>1</sup> All references to the Plan herein are to the revised plan and exhibits thereto filed on October 26, 2018, in response to Information Request DPU 2-1. In this Order, the Department refers to the revised plan and revised opt-out notice (Exh. DPU 2-1, Att.) collectively as “Plan.”

<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> On its own motion, the Department moves into the record Watertown’s responses to Information Requests DPU 1-1 through DPU 1-15, and DPU 2-1 through DPU 2-7.

## II. SUMMARY OF PROPOSED PLAN

Watertown retained Peregrine Energy Group and Bay State Consultants (together, “Consultants”) to develop, implement, and manage the Program (Plan at 3). Watertown and the Consultants developed the Plan in consultation with the Department of Energy Resources (“DOER”) (Petition at 2, Exh. 3). Watertown’s Town Council and Town Manager will be responsible for all Program decisions, including the selection of the competitive supplier(s), execution of contracts, and termination of the Program (Plan at 3, 6-7).

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

Watertown states that the focus of its Plan is to “bring the benefits of renewable energy and electricity choice to its residents and businesses” (Plan at 1). Watertown intends to offer at least three products in the Program (Plan at 1-2). The default product will include renewable energy certificates (“RECs”) in an amount greater than the minimum Massachusetts Renewable Portfolio Standard (“RPS”) requirements (Plan at 1). In addition, Watertown intends to offer at least one optional product that includes a higher number of RECs than the default product (Plan at 2). Finally, Watertown intends to offer an optional product that meets minimum Massachusetts renewable energy requirements (Plan at 1-2).

Depending on cost, Watertown may also integrate electricity generated by local resources into its power supply options (Plan at 2).

After executing a contract for electric supply, Watertown, through the competitive supplier, will begin the process of notifying eligible basic service customers about Program initiation and customers' ability to opt out of the Program (Plan at 4-5; Petition, Exh. 2, at 11-14). The notification process will include newspaper notices, public service announcements, informational web pages, a toll-free customer support hotline, community presentations, and the posting of notices at Town Hall (Plan at 4).

Watertown 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 5; Petition, Exh. 2, at 12). The competitive supplier will bear the expenses relating to the opt-out notice (Petition, Exh. 2, at 12). 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 (i.e., NSTAR Electric Company d/b/a Eversource Energy ("Eversource")), which will include the competitive supplier's generation charge and Eversource's delivery charge (Plan at 6). Program participants will also pay a \$0.001 per kilowatt-hour ("kWh") administrative adder that will be used to compensate the Consultants for the development and implementation of the Program, including their provision of ongoing services. Such services include the following: (1) managing the supply procurement; (2) developing and

implementing the public education plan; (3) providing customer support; (4) interacting with Eversource; (5) monitoring the supply contract; and (6) providing ongoing reports (Plan at 6; Petition, Exh. 2, at 38).

Watertown requests a waiver, on its behalf and on behalf of its competitive supplier, from the information disclosure requirements contained at 220 CMR 11.06, which oblige competitive suppliers to mail information disclosure labels directly to customers on a quarterly basis (Petition at 2).<sup>4</sup> As good cause for the waiver, Watertown states that it can provide this information as effectively 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; Plan at 5).

### 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,

---

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

reliability, and equitable treatment of all classes of customers and meet any requirements established by law concerning aggregated service. G.L. c. 164, § 134(a).

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

Participation in a municipal aggregation plan is voluntary and a retail electric customer has the right to opt out of plan participation. G.L. c. 164, § 134(a). Municipalities must inform 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).<sup>5</sup> Watertown provided meeting minutes demonstrating local approval through an affirmative vote at its Town Council prior to initiating the process of aggregation (Plan, Exh. 1 at 2; Plan, Exh. A). Therefore, the Department concludes that Watertown 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. Watertown provided a letter from DOER, dated May 30, 2018, confirming that Watertown completed this consultation (Petition at Exh. 3). Therefore, the Department concludes that Watertown 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).

Watertown made the Plan available from June 4, 2018 through June 22, 2018, at the Town Clerk's office and on its website (Exh. DPU 1-5). In addition, Watertown provided

---

<sup>5</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).



documentation that shows municipal officials presented the Plan at a public meeting on June 18, 2018 (Plan, Exh. 1 at 2; Exh. DPU 1-5). Therefore, the Department concludes that Watertown 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. After review, the Department finds that the Plan includes each of these required components (Plan, Exh. 1 at 3-8).

Watertown shall amend its procedure for terminating the Program contained in the Plan to include notification to the Director of the Department's Consumer Division at the same time it is required to notify the electric distribution company (i.e., 90 days prior to a planned termination of the program) (Plan, Exh. 1 at 7-8). Such notification to the Department must include copies of all media releases, Town Clerk's office and website postings, and other communications Watertown intends to provide to customers regarding the termination of the program and the return of participants to basic service. With this amendment to the procedure for terminating the program, the Department concludes that Watertown 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 municipal aggregation plan.<sup>6</sup> 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 Watertown will be enrolled in the Program, unless the customer previously contracted with a competitive supplier or affirmatively opted out of the Program (Plan at 4, 7; Petition, Exh. 2, at 9). New customers moving into Watertown 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 7). Town of Lexington, D.P.U. 16-152, at 17

---

<sup>6</sup> The municipal disclosures must do the following: (1) prominently identify all rates and charges under the municipal aggregation plan; (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).

(2017). Finally, the Plan provides that customers may return to basic service at any time (Plan at 1, 7; Exh. DPU 1-11).

After review, the Department concludes that Watertown 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 Watertown 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 10). In addition, Watertown will use the services of the Consultants, who are licensed electricity brokers, to ensure that Watertown has the technical expertise necessary to operate the Program (Plan at 3). After review, the Department concludes that Watertown 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).<sup>7</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 Watertown 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 eligible customers 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; City of Newton, D.P.U. 18-36, at 10 (2018). To this end, the Department reviews the form and content of the consumer notifications issued by municipal aggregations. As the Department continues to gain experience with the operation of municipal aggregation programs, it is fully anticipated that we will refine our position on the adequacy and clarity of consumer notifications. Town of Stoughton, D.P.U. 17-43, at 13 (2017). Watertown is required to adhere to any future directives in this regard. D.P.U. 17-43, at 13.

---

<sup>7</sup> The customer classes in the Program will be the same as those used by Eversource (Plan at 9).

Pursuant to the Plan, Watertown will provide Program information to customers “in other languages, where appropriate,” through the following channels: (1) general education, which will consist of community-wide presentations, media outreach, public notices and postings, and a toll-free customer service number and Program website operated by the Consultants and linked to Watertown’s website; and (2) a direct mail opt-out notice, which will inform customers of their rights under the Program, including their right to opt out at any time without penalty (Plan at 4-5).

Watertown reports that more than 20 percent of its population is of Armenian heritage and approximately three percent of its population speaks Spanish (Exh. DPU 1-10). In total, 31.3 percent of that population identifies as speaking English “less than very well” (Exh. DPU 1-10). Accordingly, Watertown states that it will provide the opt-out notice to all eligible customers in Armenian and Spanish, as well as in English (Exh. DPU 1-3). The Department finds that the translation of the opt-out notice and other plan materials into Armenian and Spanish will ensure that all customers are appropriately notified about automatic enrollment in the Plan and their right to opt-out.

The form of Watertown’s exemplar opt-out notice is consistent with the Department’s requirements, including a requirement 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). D.P.U. 13-131, at 26-27.

Pursuant to G.L. c. 164, § 134(a), Watertown must prominently identify all Program charges and include a full disclosure of the basic service rate. In this regard, Watertown's exemplar opt-out notice prominently identifies all Program charges, including the administrative adder that will be used to compensate the Consultants (Plan at 6; Exh. DPU 2-1). 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).<sup>8</sup> Furthermore, the Plan appropriately discloses the following: (1) that taxes will be billed as part of the Program's power supply charge; and (2) that customers are responsible for identifying and requesting an exemption from the collection of any tax by providing appropriate documentation to the competitive supplier (Plan at 6-7; Exh. DPU 2-1).

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

---

<sup>8</sup> Should a change in law result in material increase in costs to the competitive supplier, the Plan provides that Watertown and the competitive supplier will negotiate a potential change in the Program price. At least 30 days prior to the implementation of any such change, Watertown will notify Program participants of the change in price through media releases, postings at Town Hall, and on the Program website (Plan at 6; Exh. DPU 2-2).

Watertown shall inform the Director of the Department's Consumer Division prior to the implementation of any such price change. Notification to the Department shall occur prior to the consumer notification and must include copies of all media releases, Town Hall and website postings, and other communications Watertown intends to provide to customers regarding the change in price. City of Melrose, D.P.U. 18-59 (2019).

terms, a municipal aggregation plan cannot guarantee customers cost savings compared to basic service over time. See D.P.U. 12-124, at 57-66. In addition, municipalities must fully inform customers about the plan, including the benefits and consequences of municipal aggregation. G.L. c. 164, § 134(a). This is true regardless of whether the primary purpose of the municipal aggregation is to provide savings to participating customers. City of Newton, D.P.U. 18-36, at 12 (2018). 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).

Watertown 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 Plan does not use the word “savings” when comparing Program prices to basic service, it does state that Watertown will request competitive bids from power suppliers, resulting in “the best combination of environmental benefit and price” for participants (Plan at 4). Watertown shall revise its Plan following that language indicating that savings cannot be guaranteed. In addition, Watertown and its consultants shall ensure that all future communications and information regarding the Program (including, but not limited to mailings, advertisements, website postings, presentations to consumers, etc.) contain a disclaimer that “savings cannot

be guaranteed” in each instance where price is referenced, regardless of whether references to “savings” or “price stability” or the like are made.<sup>9,10</sup>

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. Watertown’s Plan and exemplar opt-out notice are consistent with these directives (Plan at 5).

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 document, consistent with the timing described above. D.P.U. 17-14, at 12. The

---

<sup>9</sup> The Department notes that Peregrine Energy Group and Bay State Consultants act as program consultants for numerous municipal aggregation programs in Massachusetts. In their role as consultants, Peregrine Energy Group and Bay State Consultants shall ensure all communications with municipalities regarding municipal aggregation fully disclose that savings cannot be guaranteed. Town of Avon, D.P.U. 17-182 (2018). A failure by the Consultants to adhere to these directives will result in remedial action, including further customer education, prior to plan approvals.

<sup>10</sup> The Department notes that Watertown’s energy manager, as part of a presentation to the Town Council made prior to the vote initiating the municipal aggregation process, appropriately disclosed that savings cannot be guaranteed when referencing price stability (Exh. DPU 1-2).



Department has further found that such language must appear in a prominent location and 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.<sup>11, 12</sup> D.P.U. 17-14, at 12. Watertown's exemplar opt-out notice and opt-out reply card are consistent with these directives (Plan at 18-21).

Finally, while G.L. c. 164, § 134(a) is silent regarding customer education after a customer is enrolled in a municipal aggregation program, Watertown 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, Watertown's plan provides that ongoing education will continue through a dedicated Program website lined to Watertown's website, including information regarding Program details, changes, and power supply sources (Plan at 4-5).<sup>13</sup> In addition, the Plan provides that price changes will

---

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> Watertown 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.

be announced in a media release, a posted notice at the Town Hall, and through the Program website (Plan at 5). Watertown will also maintain a toll-free customer information and support hotline for the duration of the Program (Plan at 3-4; Exh. DPU 1-7).

After review, the Department concludes that Watertown has satisfied the requirements of G.L. c. 164, § 134(a) regarding customer education. Watertown 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.<sup>14</sup> Town of Southborough, D.P.U. 17-19, at 14.

f. Conclusion

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

B. Waiver from Department Regulations Regarding Information Disclosure

General Laws c. 164, § 134, requires that a municipal aggregation plan meet any requirements established by law or the Department concerning aggregated service. In this regard, Watertown has requested a waiver, on behalf of itself and its competitive supplier,

---

<sup>14</sup> 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.

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, Watertown maintains that the competitive supplier can provide the same information more effectively and at a lower cost through alternate means (Petition at 2).

Watertown'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 Watertown'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 Watertown's request for a waiver from 220 CMR 11.06(4)(c) on behalf of itself and its competitive supplier.<sup>15</sup> To maintain this waiver, as part of its Annual Reports to the Department (see Section V, below) Watertown must provide sufficient information to show that the competitive supplier has provided the same information to Program participants as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). Watertown and its competitive supplier are required to adhere to all other applicable provisions of 220 CMR 11.06.

---

<sup>15</sup> This waiver is only for the Watertown's Program. The competitive supplier must continue to adhere to the applicable provisions of 220 CMR 11.06 for its other customers.

V. OTHER REQUIREMENTS

In addition to the requirements set forth in G.L. c. 164, § 134, as discussed above, Watertown 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 61-66 (prohibiting the practice of suspension); Town of Lanesborough, D.P.U. 11-27, at 24 (2011) (notice requirements to local distribution company).

Watertown shall submit an Annual Report to the Department by March 1<sup>st</sup> of each year for the previous calendar year.<sup>16</sup> 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 Watertown and competitive supplier compliance with the alternative information disclosure strategy approved in Section IV.B, above; (7) evidence documenting that Watertown has fully complied with all provisions contained in its plan (including, at a minimum, copies of all opt-out notices and other correspondence with eligible

---

<sup>16</sup> The current required form and content of municipal aggregation annual reports is addressed in D.P.U. 19-MA, Hearing Officer Memorandum (November 28, 2018).

customers and Program participants, notices, minutes of any such meetings, and screenshot images of all relevant Program pages of the websites of Watertown and consultant); and (8) copies of any complaints received by Watertown, the Consultants, or the competitive supplier regarding the Program. Watertown's first Annual Report shall be filed on or before March 1, 2020, covering 2019.<sup>17</sup> As the Department continues to gain experience with the operation of municipal aggregation programs, it is fully anticipated that we will refine reporting requirements. Watertown shall adhere to any future directives in this regard.

## 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 Watertown's Plan, as amended consistent with the directives contained herein.

---

<sup>17</sup> To the extent that its Program is not fully operational in 2019, Watertown's Annual Report should so indicate.

VII. ORDER

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

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

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

By Order of the Department,

\_\_\_\_\_  
/s/  
Matthew H. Nelson, Chair

\_\_\_\_\_  
/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.