Joint Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy, for approval of a proposed timetable and method for the solicitation and execution of long-term contracts for newly-developed, small emerging or diverse renewable energy distributed generation facilities, pursuant to St. 2012, c. 209, § 36.

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-and-
WESTERN MASSACHUSETTS ELECTRIC COMPANY
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I. INTRODUCTION

On April 8, 2015, Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”), Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid (“National Grid”), and NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy (“Eversource Energy”) (together, “electric distribution companies” or “Petitioners”) jointly filed a request with the Department of Public Utilities (“Department”) for approval of a proposed timetable and method for the solicitation and execution of long-term contracts for newly-developed, small emerging, or diverse renewable energy distributed generation facilities (“Small Emerging Renewable DG”) through a request for proposals (“RFP”) process. The Department docketed this matter as D.P.U. 15-42.

Pursuant to the Small Emerging Renewable DG requirement of Section 83A of An Act Relative to Green Communities, St. 2008, c. 169 (“Section 83A”), and 220 C.M.R, § 21.05(3), the electric distribution companies are required to jointly solicit proposals for long-term contracts from renewable energy developers for the purpose of entering into cost-effective long-term contracts to facilitate the financing of renewable energy generation. St. 2012, c. 209, § 39; 220 C.M.R. § 21.00 et seq. The electric distribution companies must

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1 Section 83A was added to the Green Communities Act by An Act Relative to Competitively Priced Electricity in the Commonwealth, St. 2012, c. 209, § 36. Section 83A requires electric distribution companies to twice jointly solicit proposals from renewable energy developers for no more than four percent of the total energy demand from all distribution customers in each company’s service territory. Section 83A separately requires that ten percent of the renewable energy procured under Section 83A is to be reserved for Small Emerging Renewable DG.
consider multiple contracting methods, including power purchase agreements ("PPA") for renewable energy credits ("REC"), for energy, or for a combination of both RECs and energy. St. 2012, c. 209, § 39. The electric distribution companies must consult with the Commonwealth of Massachusetts Department of Energy Resources ("DOER") and the Attorney General of the Commonwealth ("Attorney General") regarding the choice of contracting and solicitation methods, and must propose the timetable and method for solicitation and execution of contracts in consultation with DOER. St. 2012, c. 209, § 39. The timetable and method for solicitation and execution of such contracts is subject to review and approval by the Department. St. 2012, c. 209, § 39.


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2 As its initial comments, DOER submitted a letter requesting that the Department review and approve the Petitioners’ proposed RFP, stating that the proposed RFP will establish a process that promotes a transparent, consistent and objective solicitation process, which in turn will facilitate the Department’s review of subsequent contracts with the selected bidders, so that those contracts may be approved in an efficient and timely manner in furtherance of Section 83A (DOER Comments at 1-2).

3 In lieu of substantive reply comments, DOER provided a letter of support for the Petitioners’ reply comments (DOER Reply Comments at 1).
II. SUMMARY OF THE PETITION

A. Introduction

The Petitioners have jointly developed and seek approval of a model RFP, a proposed timetable, and a method for the solicitation and execution of the long-term contracts for Small Emerging Renewable DG as required by Section 83A. The electric distribution companies propose to conduct separate competitive solicitations to secure bids from eligible generation sources that meet the requirements of Section 83A using the model RFP and following the proposed timetable and method for solicitation (RFP §§ 1.1, 1.2, 1.3). The electric distribution companies propose to solicit bids for the supply of renewable energy and/or RECs for approximately 0.4 percent of each company’s annual load for a period of ten to 20 years (RFP § 1.1). Each electric distribution company will separately evaluate and select winning bids and separately file executed contracts with the Department for approval at the conclusion of the solicitation process (RFP § 1.3).

On October 23, 2013, and as amended October 15, 2014, DOER issued a Determination of Eligible Facilities stating that the eligible technologies for this solicitation are as follows: biogas from anaerobic digestion; hybrid anaerobic digestion and landfill gas projects; biomass energy; marine or hydrokinetic energy; emerging run-of-river hydroelectric; fuel cells using biogas or another eligible RPS Class I Renewable Fuel; wind turbines; solar thermal electric; and geothermal (RFP § 1.1; Petitioners Cover Letter at 2 & n.3). Further, a Small Emerging Renewable DG project developer may submit a proposal only if a project is
interconnected with the electric distribution system of the electric distribution company in
whose service territory that project is located (RFP § 1.1; Petitioners Cover Letter at 2).

B. Bid Evaluation Process

The model RFP sets out a three-stage bid evaluation process (RFP § 1.4). The first
stage identifies bidders that have satisfied certain eligibility, threshold, and other minimum
requirements (RFP § 2.1). To be eligible to participate in the solicitation, a bid must be
submitted by a creditworthy owner of an eligible facility or the owner of the development
rights to an eligible facility (RFP § 2.2.2). The electric distribution companies will evaluate
bids that meet the eligibility requirements to determine whether they comply with threshold
requirements which, according to the Petitioners, are intended to screen out proposals that:
(1) do not satisfy the requirements of Section 83A; (2) have not demonstrated project

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4 An eligible facility must: (1) be a distributed generation facility interconnected at the
distribution level in the service territory of the electric distribution company; (2) have a
nameplate capacity not larger than six megawatts (“MW”); (3) qualify as a RPS Class 1
Renewable Generation Unit under DOER’s Class 1 Renewable Energy Portfolio
Standard regulations, 225 C.M.R. § 14.01 et seq., and qualify to sell RECs under the
RPS program; (4) utilize an eligible technology as stated in DOER’s Determination of
Eligible Technologies for this solicitation and not more than 30 MW of capacity using
that technology was installed in Massachusetts prior to April 1, 2012; (5) have received
a Statement of Qualification or conditional Statement of Qualification from DOER;
(6) have a commercial operation date, as verified by DOER, on or after January 1,
2013, or be either a capacity expansion of an existing generation facility or a
repowering of an existing generation facility that was not previously a RPS Class 1
Renewable Generation Unit, where the capacity expansion or repowering has a
commercial operation date on or after January 1, 2013, provided that only the energy
and RECs associated with the incremental expansion or repowering is eligible; (7) not
receive net metering services as a Class I, II, or III net metering facility; and (8) have
received the pre-application report in accordance with the electric distribution
company’s interconnection standards (RFP § 2.2.2.2).
development, technical or financial viability; (3) are insufficiently mature from a development perspective; (4) involve ineligible technology; (5) lack technical viability; (6) impose unacceptable financial accounting consequences for the electric distribution company; (7) do not comply with RFP requirements pertaining to credit support; or (8) fail to satisfy minimum standards for bidder experience and ability to finance the proposed project (RFP § 2.2.3.1).\(^5\)

The second stage of the bid evaluation process ranks bids based on specified weights given to price and non-price factors (RFP § 2.3). The Petitioners propose to weight price factors 80 percent and non-price factors 20 percent (RFP § 2.3). Price evaluation will compare the total cost of the products bid (i.e., energy and RECs) to the estimated market value of the products (RFP § 2.3.1). The Petitioners plan to use a price forecast for energy derived from the New York Mercantile Exchange futures and to use broker quotes for RECs (RFP § 2.3.1). The electric distribution companies will evaluate the cost and market value of the products on a net present value basis using a discount rate equal to each company’s weighted average cost of capital (RFP § 2.3.1). The non-price evaluation is designed to assess the likelihood that a project will come to fruition based on various factors critical to successful

\(^5\) Threshold and other minimum requirements include evaluation of: (1) the project’s development schedule, technical viability, and site control; (2) the bidder’s project development, financing, construction, and operating experience; (3) the project’s contribution to electricity reliability in Massachusetts and to moderating system peak load requirements; and (4) the project’s contribution to employment and economic development benefits. Threshold requirements also include confirmation that: (1) the contract resulting from the bid facilitates project financing; (2) bids conform to the pricing options specified in the RFP and remain firm for 180 days; and (3) the bidder posted the required financial security and provided information necessary to assess whether the contract would place an unreasonable burden on the electric distribution company’s balance sheet (RFP §§ 2.2.3, 2.2.4).
project development (RFP § 2.3.2.1). Non-price factors include: (1) siting and permitting; (2) project development status and operational viability; (3) experience and capabilities of the bidder and the project development team; (4) financing; and (5) exceptions to the draft PPA
(RFP § 2.3.2). The Petitioners will establish the relative importance of each non-price factor in terms of scoring the bids prior to the receipt of the bids (RFP § 2.3.2). Following evaluation of the price and non-price factors, each electric distribution company will select a short list of bids (RFP § 2.3.2.2). An electric distribution company may elect to provide all bidders on the short list an opportunity to improve the pricing in their bids prior to third stage evaluation (RFP § 2.3.2.2).

In the third stage of the bid evaluation process, each electric distribution company will re-rank the bids on the short list based on the second-stage evaluation criteria and, at its discretion, the following additional factors: (1) cost-effectiveness; (2) project viability, including viability of the proposed technology or project plan and any interconnection challenges; (3) contribution to employment creation and economic development; and (4) unique risks to customers (RFP § 2.4). As a result of the third-stage evaluation, each electric distribution company will select the final bids for contract finalization and selected bidders must indicate in writing within five business days whether they intend to proceed with their proposals and provide fifty percent of the required financial security at that time (RFP § 2.5).

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The Petitioners state that, upon Department approval of the RFP and the timetable and method of solicitation, each electric distribution company, in coordination with DOER, will issue the RFP along with bidder forms and a draft PPA that will serve as the framework for executed PPAs (Petitioners Cover Letter at 3).
Each electric distribution company will individually negotiate and file executed PPA(s) with the Department for approval (RFP § 2.6; Petitioners Cover Letter at 3).\(^7\)

C. Bid and Contract Requirements

The proposed RFP requires that bidders propose separate prices for the sale of:

(1) electric energy; (2) RECs; and (3) bundled energy and RECs from an eligible facility (RFP § 2.2.2.3). Eligible bids may have contract terms of ten to 20 years, and must contain two price offers with price and term lengths that are five years apart (RFP § 2.2.2.4). A bidder must bid the energy and/or RECs\(^8\) from its eligible facility (RFP § 2.2.2.5). The proposed RFP specifies a maximum facility size of no more than six MW (RFP § 2.2.2.5). Each electric distribution company intends to procure not more than 0.4 percent of its distribution load in this process (RFP § 2.2.2.5).

Section 2.2.3.2 of the RFP requires eligible bidders to propose a reasonable schedule that provides for the closing of construction financing and commencement of construction on or before July 1, 2017 and a commercial operation date on or before July 1, 2018. With respect to pricing, bids can include one or a combination of the following options: (1) a fixed price for the contract term; or (2) a price that increases at a fixed rate for the contract term (RFP § 2.2.4.2(a)). Bids for bundled energy and RECs must allocate the total price between

\(^7\) The Petitioners anticipate that the PPAs will vary based on contracting requirements that are specific to each electric distribution company and each project (Petitioners Cover Letter at 3).

\(^8\) Capacity and solar renewable energy certificates that are eligible under DOER’s Solar Carve-Out Program are not eligible products (RFP § 2.2.2.3).
the two products and provide for energy-only purchase at the stated energy price if the RECs cease to conform to the eligibility criteria for a RPS Class 1 Renewable Generation Unit under DOER’s Class 1 Renewable Energy Portfolio Standard regulations (RFP § 2.2.4.2(b)). Pricing may not be contingent upon or subject to adjustment based upon the availability or receipt of any government grant or subsidy or tax credits (RFP § 2.2.4.2(c)). Bidders must provide firm pricing for 180 days (RFP § 2.2.4.1).

D. Proposed Timetable

The proposed timetable for the bidding process is set forth in Table 1, below (RFP § 3.1).

<table>
<thead>
<tr>
<th>Event</th>
<th>Anticipated Date</th>
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<tbody>
<tr>
<td>Issue RFP</td>
<td>Day 0</td>
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<tr>
<td>Bidders Conference</td>
<td>Day 14</td>
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<tr>
<td>Submit Notice of Intent to Bid</td>
<td>Day 21</td>
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<tr>
<td>Deadline for Submission of Questions</td>
<td>Day 21</td>
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<tr>
<td>Due Date for Submission of Proposals</td>
<td>Day 42</td>
</tr>
<tr>
<td>Selection of Short-Listed Bidders</td>
<td>Day 162 [120 days after bid submission]</td>
</tr>
<tr>
<td>Finalize and Execute Contracts</td>
<td>Day 192 [150 days after bid submission]</td>
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<tr>
<td>Submit Contracts for Department Approval</td>
<td>Day 221 [179 days after bid submission]</td>
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</table>

Once the Department approves the method and timetable for solicitation and execution of the PPAs, the Petitioners will promptly issue the RFP to a wide range of potentially interested parties (Petitioners Cover Letter at 3).

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9 Anticipated Date refers to the anticipated number of days from the date of issuance of the RFP.
III. SUMMARY OF COMMENTS

A. Product Pricing

1. Harvest Power, Inc. and NEO Energy, LLC

Harvest and NEO Energy state that the RFP establishes that an eligible bidder must propose separate prices for: (1) electric energy; (2) RECs; and (3) bundled electric energy and RECs (Harvest Comments at 2, citing RFP § 2.2.2.3; NEO Energy Comments at 2). Harvest and NEO Energy state that the bundled electric energy and REC price must allocate the total bundled price between energy and RECs, with only the energy being purchased at the stated energy price if the RECs cease to conform to DOER’s eligibility criteria (Harvest Comments at 2, citing RFP § 2.2.4.2; NEO Energy Comments at 2). Harvest and NEO Energy contend that the RFP leaves unclear whether the three bid prices can be completely independent of one another (Harvest Comments at 2; NEO Energy Comments at 2). To illustrate this point, Harvest states that if an eligible bidder submits a price of $X/megawatt hour (“MWh”) for electric energy and $Y/MWh for RECs it is unclear whether the bundled price must be the sum of $X+Y$, or whether it can be some other number (Harvest Comments at 2). Both Harvest and NEO Energy contend that an electric distribution company could select an eligible bidder’s pricing for electric energy only or for RECs only, although the eligible bidder may have intended for the price to be bundled (Harvest Comments at 2; NEO Energy Comments at 2). Harvest and NEO Energy contend that linkage of the three bid prices provides an opportunity for an electric distribution company to “cherry pick” the REC-only price, which could result in
an eligible bidder being unable to proceed with a project (Harvest Comments at 2; NEO Energy Comments at 2).

Harvest and NEO Energy therefore recommend that the Department clarify the provision in the RFP that the three pricing alternatives may be completely independent of one another, and that the bundled price can include individual prices for electric energy and RECs, but that information can only be used by the electric distribution companies to revise the price paid to a successful bidder in the event that a REC ceases to conform to DOER eligibility criteria (Harvest Comments at 2; NEO Energy Comments at 2). Harvest provides a second recommendation, that the Department direct the electric distribution companies to allow eligible bidders the option to submit bids under any or all of the three alternatives, without requiring that the eligible bidders submit all three alternatives (Harvest Comments at 2).

2. **Petitioners**

The electric distribution companies state affirmatively that the RFP is not intended to “cherry pick” among various bidders’ prices for energy, RECs, or bundled energy and RECs (Petitioners Reply Comments at 2). The Petitioners state that their intent is to evaluate the products that are offered as they are offered (Petitioners Reply Comments at 2). The Petitioners maintain that the RFP is designed so that the proposals selected for contract finalization will serve Section 83A’s interests by furthering those projects that have a strong likelihood of being financed and constructed and that will provide a low-cost source of long-term renewable energy (Petitioners Reply Comments at 2, citing RFP § 1.1). The Petitioners contend that the RFP is structured to address their need to receive prices for energy
and RECs separately, even when bundled together, and that this structure is necessary in the event that a project chosen through the solicitation ceases to produce qualifying RECs (Petitioners Reply Comments at 2). Therefore, the Petitioners request that the Department decline to accept Harvest and NEO Energy’s recommendation and not require a revision to the RFP regarding the bidding of energy and RECs (Petitioners Reply Comments at 2).

B. **Power Purchase Agreement Termination**

1. **Harvest Power, Inc.**

   Harvest states that the RFP requires that a bidder go forward with a PPA even if the Department has approved terms that differ substantively from the PPA originally executed by the bidder and an electric distribution company (Harvest Comments at 3, citing RFP § 2.6). Harvest maintains that only the electric distribution company may terminate the PPA if the Department’s approval contains terms or conditions that are unsatisfactory to the electric distribution company, and that there is no policy justification for this inequity (Harvest Comments at 3). Therefore, Harvest recommends specific language changes to the RFP to allow either the electric distribution company or the bidder to terminate the PPA if the Department’s approval contains terms or conditions that are unsatisfactory to either party (Harvest Comments at 3).

2. **Petitioners**

   The Petitioners contend that this recommendation is unnecessary (Petitioners Reply Comments at 2). The Petitioners maintain that Section 2.6 is drafted to apply solely to the electric distribution companies because only the electric distribution companies are regulated
by the Department (Petitioners Reply Comments at 2). Therefore, the electric distribution companies maintain that they require this provision to provide them with the option of terminating a PPA executed pursuant to this solicitation if the Department’s approval contains conditions that are unsatisfactory to them (Petitioners Reply Comments at 2). To the extent that the Department requires a new condition as part of its approval, and the affected electric distribution company agrees to include it in the PPA, the Petitioners contend that they would need to amend the PPA in order for the condition to take effect, requiring its counterparty to execute the amendment (Petitioners Reply Comments at 2). Therefore, the Petitioners argue that a bidder would have the option of refusing to execute such an amendment, and therefore, preserve its ability not to participate in an agreement that is not satisfactory to it (Petitioners Reply Comments at 2). Accordingly, the Petitioners argue that the Department should decline to accept Harvest’s recommendation and not require the Distribution Companies to revise the RFP (Petitioners Reply Comments at 2).

C. Project Certification

1. Distributed Wind Energy Association and Small Wind Certification Council

DWEA and SWCC contend that the proposed bid evaluation process and selection criteria may not adequately identify viable and commercially-ready technologies (DWEA Comments at 1; SWCC Comments at 2). DWEA and SWCC recommend creating an explicit requirement for technology certifications and testing following best practices and standards established by recognized third-party organizations, including the Interstate Turbine Advisory Council, Intertek, and the SWCC (DWEA Comments at 1; SWCC Comments at 2). DWEA
and SWCC maintain that requiring eligible bidders to be partially certified by one of these entities can prevent adverse public reaction to poorly contracted energy technologies (DWEA Comments at 1-2; SWCC Comments at 2). DWEA and SWCC contend that public acceptance of renewable energy technologies can depend upon government entities demonstrating that they have wisely deployed funds for the best technologies, and that the risk of contracting a technology that is not ready for commercial deployment can harm the reputation of renewable technologies broadly and the technology type specifically (DWEA Comments at 2; SWCC Comments at 2). Therefore, DWEA and SWCC recommend revising the RFP to include specific certification and testing criteria for eligible bidders (DWEA Comments at 2; SWCC Comments at 1).

2. **Petitioners**

The Petitioners state that they oppose the recommendations proposed by DWEA and SWCC (Petitioners Reply Comments at 3). The Petitioners contend that it is unclear which third party organizations are recognized, and by whom, as adequate providers of certification (Petitioners Reply Comments at 3). The Petitioners contend that such certifications are not sufficient to ensure project success and therefore do not provide added value (Petitioners Reply Comments at 3). The Petitioners maintain that it is also unclear what standards should be applied to qualify for “certification,” and that they could not place any meaningful value on a purported certification offered by a bidder in this solicitation (Petitioners Reply Comments at 3). Therefore, the electric distribution companies request that the Department reject the recommendations of the DWEA and SWCC on this issue (Petitioners Reply Comments at 3).
IV. ANALYSIS AND FINDINGS

A. Introduction

Section 83A of the Green Communities Act requires electric distribution companies to jointly solicit proposals for long-term contracts for Small Emerging Renewable DG. St. 2012, c. 209, § 36. The Department must review and approve the timetable and method for the solicitation and execution of such long-term contracts, as well as any executed contracts that result. St. 2012, c. 209, § 36. The Department reviews the resulting contracts by considering the costs and benefits of such contracts and shall approve a contract only upon a finding that it is a cost effective mechanism for procuring low cost renewable energy on a long-term basis taking into account the factors outlined in Section 83A. St. 2008, c. 169, § 83A; 220 C.M.R. § 21.05(1). In this Order, we assess whether the electric distribution companies’ proposed RFP complies with Section 83A and 220 C.M.R. § 21.00 et seq., and we address three arguments raised by commenters.

B. Product Pricing

Harvest and NEO Energy recommend that the Department direct the Petitioners to modify the RFP to state that the three pricing alternatives (i.e. energy, RECs, and bundled energy and RECs) are completely independent of one another, to prevent the Petitioners from “cherry picking” one component of a bid from one bidder and a separate component from a different bidder (see Harvest Comments at 2; NEO Energy Comments at 2). The Petitioners maintain, however, that the proposed RFP is not intended to “cherry pick” among bidders’ prices for energy, RECs, or bundled energy and RECs (see Petitioners Reply Comments at 2).
Rather, the Petitioners contend that the RFP’s intent is to evaluate the products that are offered as they are offered while also providing the electric distribution companies with separate prices for energy and RECs, even when bundled together, in the event that a selected project ceases to produce qualifying RECs (see Petitioners Reply Comments at 2). Based on the Petitioners’ representations that they do not intend to “cherry pick” one component of a bid from one bidder and a separate component from a different bidder, we find this recommendation unnecessary.

Additionally, Section 83A requires that the electric distribution companies evaluate the results of the RFP in order to execute contracts that will facilitate the financing of renewable energy projects, and this evaluation includes a consideration of the products that must be contracted for a project to secure financing. We agree with the electric distribution companies that the RFP must be structured to provide separate prices for energy and RECs, even when bundled together, in the event that a selected project ceases to produce qualifying RECs (see Petitioners Reply Comments at 2). Therefore, we find that modifications to the RFP that allow bidders to specify which eligible products their bid contains are unnecessary. Regarding Harvest’s requested clarification that the three pricing options should be independent and not necessarily additive, we find that the clarification of questions concerning specific bids is addressed in the RFP (see RFP § 3.2). Therefore, the Department declines to accept Harvest and NEO Energy’s recommendations.
C. Power Purchase Agreement Termination

Regarding Harvest’s contention that Section 2.6 of the RFP should be modified to allow either an electric distribution company or a bidder to terminate a PPA if the Department’s approval contains terms or conditions that are unsatisfactory, we find this recommendation to be unnecessary (see Harvest Comments at 3). The Petitioners correctly note that only the electric distribution companies are regulated by the Department, and therefore require this provision to provide them with the option of terminating a PPA in the event that the Department’s approval contains conditions that are unsatisfactory to them (see Petitioners Reply Comments at 2). If an electric distribution company seeks to amend its PPA to reflect a new condition required by the Department as part of its approval, the counterparty to the contract is required to execute the amendment. The counterparty would have the option of refusing to execute such an amendment, thereby preserving its ability to not participate in an agreement that is not satisfactory to it. Therefore, the Department finds that revisions to the RFP in § 2.6 are not warranted.

D. Project Certification

Regarding DWEA and SWCC’s recommendation that the Department direct the Petitioners to modify the RFP to include specific certification and testing criteria for eligible bidders, we agree with the Petitioners that this recommendation is not necessary (see DWEA Comments at 1-2; SWCC Comments at 1-2; Petitioners Reply Comments at 3). The Petitioners, in collaboration with DOER and the Attorney General, developed the threshold requirements of the RFP and the bid evaluation process in which those requirements are
considered (see Petitioners Cover Letter at 1-2; RFP § 2.2.3). The threshold requirements are intended to screen out proposals that, among other issues, lack technical viability (RFP § 2.2.3.1). We find that a requirement for certifications would not ensure project success or add value to the current bid evaluation process. Therefore, the Department finds that the RFP bid evaluation process and selection criteria adequately consider and identify technical viability, and, accordingly, we find that this recommendation is unnecessary.

E. Conclusion

After review, the Department finds that the timetable and method for the solicitation and execution of long-term contracts for Small Emerging Renewable DG contained in the proposed RFP are consistent with the requirements of Section 83A and 220 C.M.R. §§ 21.00 et seq. In addition to the issues discussed above, the Petitioners propose to solicit long-term contracts for Small Emerging Renewable DG with a term of between ten and 20 years, consistent with Section 83A and 220 C.M.R. § 21.02 (RFP § 2.2.2.4). The electric distribution companies properly propose to solicit these Small Emerging Renewable DG long-term contracts through separate competitive solicitations by each electric distribution company, consistent with Section 83A and 220 C.M.R. § 21.05(3) (RFP § 1.2). The electric distribution companies appropriately considered multiple contracting methods as required by Section 83A and 220 C.M.R. § 21.04(4), and the proposed RFP defines eligible products as energy and/or RECs (RFP § 2.2.2.3). Section 83A and 220 C.M.R. § 21.05 further require that renewable energy generating sources: (1) have a commercial operation date on or after January 1, 2013; (2) be qualified to sell RECs under the Massachusetts RPS program; (3) have
nameplate capacity not larger than six MW; (4) do not qualify as a Class I, II or III net metering facility, as defined by G.L. c. 164, §§ 138, 139; and (5) do not use any technology that had more than 30 MW of capacity installed in the Commonwealth prior to April 1, 2012, as determined by DOER. These requirements are included as eligibility criteria in the proposed RFP (RFP § 2.2.2.2). In addition, Section 83A and 220 C.M.R. § 21.05(1) require the Department to determine that a renewable energy generating source: (1) provides enhanced electricity reliability within the Commonwealth; (2) contributes to moderating system peak load requirements; (3) will be cost-effective to Massachusetts ratepayers over the term of the contract; and (4) creates additional employment and economic development in the Commonwealth, where feasible. These criteria are included in the first, second, and third bid evaluation stages described in the proposed RFP (RFP §§ 2.2, 2.3, 2.4).

The Petitioners’ stated intent is to solicit energy and RECs for Small Emerging Renewable DG for 0.4 percent of each electric distribution company’s aggregate annual load (RFP § 1.1), consistent with Section 83A and 220 C.M.R. § 21.08(4), which provide that electric distribution companies shall not enter into long-term contracts under Section 83A that would, in the aggregate, exceed four percent of the total energy demand from all electric distribution customers. In addition, the electric distribution companies properly reserved ten percent of the aggregate level of long-term contracts for Small Emerging Renewable DG, as determined by DOER, which are located within each distribution company’s service territory, consistent with Section 83A and 220 C.M.R. § 21.05(3) (RFP §§ 1.2, 2.2.2.2).
The Department finds that the proposed timetable and method of solicitation and execution of long-term contracts for Small Emerging Renewable DG included in the proposed RFP are consistent with the requirements of Section 83A and 220 C.M.R. § 21.00 et seq. Accordingly, the Department approves the Petitioners’ proposed timetable and method of solicitation and execution of long-term contracts for renewable energy for Small Emerging Renewable DG.

V. ORDER

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

ORDERED: That the petition of Fitchburg Gas and Electric Light Company, Massachusetts Electric Company and Nantucket Electric Company, and NSTAR Electric Company and Western Massachusetts Electric Company, for approval of a proposed timetable and method for soliciting and executing long-term contracts for newly-developed, small emerging or diverse renewable energy distributed generation facilities is APPROVED; and it is
FURTHER ORDERED: That Fitchburg Gas and Electric Light Company, Massachusetts Electric Company and Nantucket Electric Company, and NSTAR Electric Company and Western Massachusetts Electric Company, shall comply with all other directives contained in this Order.

By Order of the Department,

/s/  
Angela M. O’Connor, Chairman

/s/  
Jolette A. Westbrook, Commissioner

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