COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Petition of Massachusetts Wholesale Electric Company for Authorization and Approval to Issue Bonds, Notes and Other Evidences of Indebtedness in an Amount not to Exceed $170,000,000 Pursuant to St. 1975, c. 775, §§ 5(p), 9, 11, and 17	)))))))	**D.P.U. 21-29**

REPLY BRIEF
OF MASSACHUSETTS CLIMATE ACTION NETWORK, INC.

I. INTRODUCTION

In its Petition, Massachusetts Municipal Wholesale Electric Company ("MMWEC" or the "Company") inaccurately asserts that the Project meets the applicable statutory standards for approval by the Department. In its brief ("MMWEC Brief"), MMWEC continues the false narrative that the Project meets the requirements of St. 1975, c. 775, §§ 5(p), 9, 11, and 17, as a reasonably necessary capacity resource providing rate stability at lowest possible cost.

As stated in the Massachusetts Climate Action Network's ("MCAN") Initial Brief ("MCAN Brief"), MMWEC failed, as part of its assessment of the Project, to (i) fully consider the Global Warming Solutions Act , St. 2008, c. 298, ("GWSA") and the recently enacted Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, Chapter 8 of the Acts of 2021 ("Roadmap") and account for the net zero emissions goal of the Commonwealth, (ii) adequately assess available alternatives to the Project, including options that would be available to meet capacity (assuming such a need was demonstrated); (iii) compare the costs of this Project to other possible alternative resource options; (iv) analyze the risk that the Project would be a stranded cost and contribute to climate change; and (v) evaluate the environmental justice implications. This comprehensive assessment is required as set forth in Fitchburg II and essential for any determination of the public interest given the climate emergency recognized by the Legislature and as set forth in Kain and NEPGA. MCAN Brief at 3-7, 10-16.

MMWEC's Brief did not address these important issues. In its limited assessment of the Project, MMWEC simply did not undertake the type of review necessary to evaluate the public interest. Consequently, in the absence of a comprehensive review, MMWEC did not and cannot demonstrate that the Project would provide necessary capacity or rate stability at lowest possible cost. Accordingly, for the reasons set forth in herein and in its Initial Brief, MCAN submits that MMWEC has not satisfied its statutory burden under St. 1975, c. 775, §§ 5(p), 9, 11, and 17, and the Department should deny MMWEC's petition to finance the Project ("Petition").

II. REBUTTAL ARGUMENT

A. Introduction

In its initial brief, MMWEC flatly, but incorrectly, asserts that the Project is "reasonably necessary for its purposes." MMWEC Brief at 10-21. Citing its filing, MMWEC posits that the Project would "help meet" capacity obligations and provide rate stability at lowest possible cost. In addition, MMWEC promotes the Project as a "hedge against price volatility" and asserts that the Project would "assist [] in the transition to de-carbonization of energy." MMWEC Brief at 19-21.

MMWEC's case, as presented in its brief, is premised upon three fundamental flaws: (i) the Department's review should be limited in scope, (ii) the Project, as an ISO-NE capacity resource, would provide rate stability at lowest possible cost; and (iii) a fossil fuel resource in 2021 is compatible with the Commonwealth's mandate of net zero in 2050.[1]

[1] This Reply Brief is not intended to respond to every argument made or position taken in MMWEC's Brief. Accordingly, MCAN's failure to address any particular argument or position should not be interpreted as assent to those arguments or positions.

B. The Department is Required to Undertake a Thorough Review to Determine Whether the Project is in the Public Interest

At the outset, MMWEC requests that the Department "limit its review" of the scope required as part of any consideration of St. 1975, c. 775, §§ 5(p), 9, 11, and 17. MMWEC Brief at 7.[2] Notwithstanding MMWEC's request, the Department's obligation here is to undertake a thorough, i.e., not perfunctory, examination of the financing application to determine whether the financing is in the "public interest." Fitchburg II at 842 (1985). This "public interest" requirement as set forth in Fitchburg II (and recognized by the Department in D.P.U. 84-152) requires, among other things, not only a meaningful review of economics, alternatives, and risks but also an assessment of the Project's compliance with the mandates of the GWSA and the Roadmap and its impacts on climate change and environmental justice implications. MCAN Brief at 10-31.

MCAN noted in its brief the essential elements of any such review. MMWEC should present and the Department should review (i) the implications and reality of the climate emergency; (ii) alternatives to the Project, including a detail presentation that the Project is least cost as compared to market based alternatives and energy storage options[3]; (iii) risks associated

[2] MMWEC references the Hearing Officer's comments on the scope of this proceeding in a footnote to her Memorandum dated July 20, 2021 as further justification for a limited scope in this case. MMWEC Brief at 7. Notwithstanding the Hearing Officer's Memorandum, MCAN urges the Department to require the review as set forth in the applicable precedents and determine that MMWEC has not met its burden as required pursuant to St. 1975, c. 775, §§ 5(p), 9, 11, and 17. MMWEC's request that the Department limit its review is a tacit recognition and admission that its filing is deficient and does not meet the applicable standard. As set forth in MCAN's Brief, the fact that the Department may have undertaken a cursory review in other cases is not dispositive or precedent for a limited review here. MCAN Brief at 5.

[3] An analysis of market based alternatives and energy storage options is required to evaluate whether the Project is in fact lowest possible cost to customers as compared to alternatives.

with the Project including the risk that the Project will become a stranded asset and the Project's overall contribution to climate change; and (iv) the environmental justice implications of the Project. Id.

MMWEC's filing falls far short of the detailed and specific analysis required to evaluate lowest possible cost, project alternatives and omits any consideration of risks and environmental justice. Accordingly, MMWEC's Petition does not meet the applicable standards for review and approval and should be rejected by the Department. MCAN Brief at 14-16.

C. MMWEC Has Mischaracterized the Capacity Market and Failed to Demonstrate Price Fluctuations and Instability

MMWEC points to the operation of capacity market and its capacity obligations in ISO-NE's capacity market to justify the Project. MMWEC Brief at 11-14. MMWEC asserts that its members have capacity requirements and, to meet "ISO-NE-imposed requirements, MMWEC's members can either own generation to provide capacity and energy, contract for capacity or energy or purchase capacity and energy from the ISO in the open markets." Id. at 12-13.[4]

Specifically, MMWEC submits that ISO-NE's capacity requirements expose MMWEC members to "capacity price fluctuations" and creates price instability for its customers. Id. at 14. According to MMWEC, with the Project, the Project Participants would have "more rate stability because it decreases the MMWEC members' exposure to capacity price fluctuations." Id. at 15. MMWEC stated that "it studied the price of and need for capacity of its members" and concluded that "there is a tremendous amount of volatility in the capacity market. Accordingly,

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As set forth in Section C, the capacity market includes hundreds of megawatts of energy storage as a viable least cost capacity resource.

[4] As noted in MCAN's initial brief, although MMWEC concedes that it could have contracted for capacity, it failed to present any specific information regarding this resource option as an alternative to the Project. MCAN Brief at 17-18.

MMWEC's members, because they must have a sufficient capacity to meet their loads, would be subject to this price volatility in serving their customers." Id. at 16. The Project "in combination with other resources" was designed to mitigate this "price volatility." Id. at 17.

Notwithstanding MMWEC's claims, *there is no evidence of price volatility* in the ISO-NE capacity markets or indication of future price instability in any reasonable planning horizon. The markets are expected to be stable at least through 2025 (FCA 15). See 2020 Annual Markets Report, ISO-NE, June 9, 2021, ("Markets Report") at 189-190.[5] Any higher prices in the past, e.g., FCA 8 (2017-2018), resulted from retirements.[6] Id. With higher clearing prices and new entry (the market operating as designed), FCM payments declined and have remained stable. Id.

In addition, it is reasonable to assume that this price stability will continue well into the future—starting with FCA 9 there were a number of significant improvements to the capacity

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5 2020 Annual Markets Report (https://www.iso-ne.com/static-assets/documents/2021/06/2020-annual-markets-report.pdf.) On June 9, 2021 ISO-NE released it 2020 Annual Markets Report which provides a detailed review by ISO-NE's Internal Market Monitor of market trends, performance and operations, including an evaluation of "procedures for the determination of energy, reserve and regulation clearing prices, Net Commitment Period-Compensation Costs and the performance of the Forward Capacity Market and Financial Transmission Rights Auctions." Markets Report at iii. Had MCAN been allowed to participate in this case, it would have compared and contrasted the Company's capacity market assertions with the market information as presented in the Markets Report. At this stage, in order to develop a more complete record here, the Department should take administrative notice of the Markets Report.

6 It is possible at the time the Project was initially recommended to each member in 2015 that market price volatility was a concern. Although there was a capacity shortage in FCA 8 (2017 -2018), the market functioned as designed to encourage additional capacity which reduced prices. Markets Report at 35, 50. In addition, as noted herein, ISO-NE implemented effective procedures and policies to mitigate and reduce the volatility going forward. Id. at 196. What may have been a market concern in 2015 has been addressed and cannot serve as any reasonable justification for the Project now. Simply stated, capacity price fluctuations and price volatility, as claimed by MMWEC to justify the Project, do not exist in ISO-NE markets and cannot serve as any legitimate basis to approve the Project. Moreover, there is every reason to believe, should volatility reemerge, that ISO-NE will address it as it had previously.

market design, including the implementation of minimum floor price offer rules and pay-for-performance requirements designed to mitigate any market volatility going forward.[7] Id. at 196. Even MMWEC's analysis, as submitted in this case, shows no volatility through FCA 28 (2036-2037). See Exh. MMWEC-1, Att. 5.[8] At best, MMWEC's filing speculates that there may be market volatility approximately 15 years from now. Id. As set forth below, it is more likely that the Project, if allowed, would be a stranded asset that far into the future.

The Markets Report raises other concerns about MMWEC's choice of the Project as a gas fired combustion turbine. Although MMWEC claims that the Project would provide rate stability, the Markets Report demonstrates that combustion turbines like the Project may not be as economic as MMWEC believes. Both combined cycle and combustion turbine estimated annual revenue requirements were lower than their respective Gross CONE (cost of new entry) values. Id. at 24. Consequently, revenues from the energy and capacity markets may be insufficient to support new entry from gas fired generators.

This result (lower estimated revenues as compared to CONE) is likely to continue and be accelerated as the cost of emission allowances required by the RGGI and GWSA cap and trade

[7] As the Markets Report states "Combined, the minimum offer price and the PFP rules encouraged a greater degree of active participation in auctions, with more new and existing resources submitting offers in the auction." Markets Report at 196. Clearing prices dropped and stabilized. See Figure 6-1 showing Clearing Prices in the Context of Market Rule Changes. Id.

[8] MMWEC's analysis in MMWEC-1, Att. 5, based upon a November 2020 forecast, shows negligible volatility until FCA 28, which is 2036-2037. This is way beyond any reasonable timeline for resource planning. Accordingly, even MMWEC's filing on its face does not support MMWEC's claim of market volatility as a reasonable basis for the Project.

programs increase over time.[9] Id. at 25, 50-58. These programs will continue to increase the cost of fossil-fueled generation as compared to battery storage and other non-fossil alternatives.

As a further strong indication that the ISO-NE market will not support new entry of gas fired generation, the Markets Report noted that "no new gas fired generation cleared in the two most recent auctions (FCA 14 and FCA 15)." Id. at 60.

There was no mention of the likely impacts of the bleak economics or the impacts of the expanding cap and trade programs on the Project in MMWEC's filings. Nevertheless, it is clear that the Project will not offer "rate stability" or be lowest possible cost if it is not economic and fails to operate in the markets.

Finally, the Markets Report confirms the apparent viability of other capacity resource choices as compared to fossil-fueled generation. Although MMWEC claims that renewable sources of energy, and particularly battery storage, are not viable or economic choices (MMWEC Brief at 19), the Markets Report shows that battery storage has become the predominant capacity resource over the past several years. Specifically, new battery storage projects qualified over 1,700 MW of new capacity, an increase from the 752 MW qualified in FCA 14. Markets Report at 192. In FCA 15, the largest drivers of new capacity were battery storage projects, clearing almost 600 MW, up from a combined 22 MW in previous FCAs. Id. at 50, 198, 201, 203.[10] This is not surprising given the dubious economics of fossil-based generation as discussed above.

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[9] In 2020, the average estimated cost of the RGGI program increased 15% for most fossil fuel fired generators, year-over-year and going forward, prices are expected to rise in the GWSA program as well. Markets Report at 53-54. These program costs "may impact on the frequency of intervals when it is economic for a [combined cycle or combustion turbine] generator to produce electricity." Id. at 59.

[10] "FCA 15 saw the largest integration of battery storage in the capacity mix. Since the first project cleared in FCA 13, battery storage projects have increased their share of capacity

In short, the Markets Report highlights the stability of the market and the questionable economics of the fossil-fueled Project under current (and future) market conditions, and the clear market trend in favor of battery energy storage options. MMWEC's claims to the contrary are without merit.

The uncertain economics of fossil generation and the successful participation of battery energy storage, as documented in the Markets Report, is further confirmation that MMWEC should have presented a detailed assessment of the Project as compared to an energy storage facility. Such a review, as set forth in MCAN's Brief, would provide a record basis for the Department to assess whether in fact the Project is truly in the best interest of customers as MMWEC claims and/or whether an energy storage resource is lowest possible cost in the current ISO-NE market. MCAN Brief at 20-28. In the absence of any such comparison, MCAN submits that MMWEC has not met is burden to show that the Project is in the public interest.

D. MMWEC Understates the Need for a Non-Fossil Alternative

MMWEC pays lip service to the need for a non-fossil resource and oddly posits, as "ancillary benefit", that the Project "will accommodate the growth of renewable and non-carbon emitting sources in the region by providing fast starting capability and ramping support." MMWEC Brief at 21. As further justification, MMWEC points to the limited hours of operation and its promise to "continue to invest in resources that provide carbon free energy" in the future. Id. The fact that the Project will operate as a fossil fueled peaking plant (even if operating limited hours) does not make the Project consistent with either the GWSA or the Roadmap. See

from 5 MW to 614 MW." Markets Report at 201. In FCA 15: 596 MWs of "new battery storage projects." Id. at 198.

MCAN Brief at 11-16. Nor is MMWEC's "promise" to undertake investments in the future reassuring—as the Court stated in NEPGA, now is the time to act. MCAN Brief at 16, fn 18.

To be clear—there is no basis to assume that the Project, with its documented level of emissions, is consistent with the Legislature's definitively stated net-zero mandates or is in the public interest given the recognized need to cut "emissions from the electric sector" as a "crucial initial step." MCAN Brief at 12-13, citing NEPGA. MCAN has detailed the requirements of the GWSA and Roadmap restricting the continued development of carbon emitting resources such as in the instant case. MCAN Brief at 11-16. MMWEC has simply failed to present any justification for this Project as a fossil-fueled resource given the Legislature's call for reductions in emissions by the electric sector.

IV. CONCLUSION

The record demonstrates that MMWEC failed to thoroughly consider the requirements of the GWSA and Roadmap, evaluate alternative options, confirm that the Project is lowest possible cost, assess project risks, and weigh the environmental justice implications of the Project. Moreover, the Markets Report cited herein, confirms that (i) MMWEC has failed to demonstrate that the ISO-NE market creates the price volatility it suggests as justification for the Project, (ii) gas-fired projects are not economic in the current market, and (iii) energy storage projects are viable alternatives. Accordingly, for the reasons set forth herein and in MCAN's Initial Brief, MMWEC has not established, as required by St. 1975, c. 775, §17, that the proposed Project is reasonably necessary, in the public interest, and represents the best option at the lowest possible cost, given other possible alternatives and associated risks.

Wherefore, MCAN respectfully requests that the Department reject the Company's Petition for approval of the financing of the Project.

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