

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

IN THE MATTER OF A PETITION OF THE
MASSACHUSETTS MUNICIPAL WHOLESale
ELECTRIC COMPANY FOR AN ORDER UNDER
CHAPTER 775 OF THE ACTS OF 1975 APPROVING
THE ISSUANCE OF NOTES, BONDS AND OTHER
EVIDENCES OF INDEBTEDNESS TO FINANCE,
CONSTRUCT AND OPERATE A CAPACITY RESOURCE
AS THE INITIAL ISSUANCE AND TO REFUND THE
INITIAL ISSUANCE THROUGH REFUNDING BONDS

D.P. U. 21-29

**INITIAL BRIEF
OF THE
MASSACHUSETTS MUNICIPAL WHOLESale ELECTRIC COMPANY**

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I. INTRODUCTION

A. History of The Proceeding

1. The Petition

On March 3, 2021, pursuant to St. 1975, c. 775¹, §§ 5(p), 9, 11, and 17, the Massachusetts Municipal Wholesale Electric Company (“MMWEC”) filed its petition (“MMWEC Petition”) with the Department of Public Utilities (“Department”) seeking authority for the issuance of notes, bonds and other evidence of indebtedness to finance MMWEC’s Project 2015A (described in Section IV, *infra*) as reasonably necessary for their purposes in a total aggregate amount not to exceed \$170,000,000 comprised of:

(1) up to \$85,000,000 of long-term revenue bonds, notes or other evidences of indebtedness, the proceeds of which would be used to own, construct, operate and maintain Project 2015A (the capacity resource) that will provide required capacity and rate stability to MMWEC members (and their customers) who are participating in the capacity resource (“Initial Issuance”); and

(2) up to \$85,000,000 in refunding revenue bonds, notes or other evidences of

¹ Reported at G.L. c. 164, Appendix §§1-1, et. seq., West Ed. and cited *infra* as “G.L. c. 164, App. ___” (See page 7, *infra*)

indebtedness in an appropriate amount and to be issued at appropriate times to refinance all or a portion of the Initial Issuance (“Refunding Bonds”). (Exhibit MMWEC-1, p. 9).

In support of its petition, MMWEC also simultaneously filed direct testimony, with supporting documentation, of four (4) witnesses.

2. Notice of Filing and Request for Comments

The Department docketed the MMWEC Petition as Re: MMWEC, DPU 21-29.

On March 18, 2021, the Department’s Commission assigned Lauren Morris, Esq. as the Hearing Officer in DPU 21-29.

On March 23, 2021, the Hearing Officer issued a Notice of Filing and Requests for Comments. (“Notice of Filing”). Among other things, the Notice of Filing set April 26, 2021 as the date for a remote participation public comment hearing immediately followed by the evidentiary hearing. The Notice of Filing required that any person wishing to provide verbal comments at the April 26, 2021 public comment hearing had to notify the Hearing Officer by April 19, 2021, with the Hearing Officer accepting written comments up to the close of business on April 26, 2021.

The Notice of Filing also required that any person wishing to intervene in the evidentiary phase of the hearing had to file a petition for leave to intervene no later than April 7, 2021.

3. Order of Notice

On March 23, 2021, the Department’s Secretary issued an Order of Notice. The Order of Notice required MMWEC, by March 30, 2021, to: (a) publish the Notice of Filing in one of two newspapers in the City of Boston; and (b) serve the Notice of Filing on: (i) the service list in *Massachusetts Municipal Wholesale Electric Company*, D.P.U. 13-162; and (ii) any person who had asked to be notified by MMWEC. In accordance with the Hearing Officer’s request, MMWEC also served a copy of the Notice of Filing on the Managers of all Project Participants

in Project 2015A, the City Clerks and Town Clerks of the cities and towns of the Project Participants (defined in Section II.B, *infra*), and the Mayors and Select Boards of the cities and towns of the Project Participants. Also, the Order of Notice required MMWEC to display the Notice of Filing prominently on its web site commencing on March 26, 2021. (Order of Notice).

In accordance with the requirements of the Order of Notice, on April 26, 2021, MMWEC filed its notarized Return of Service and Proof of Publication certifying that all of the notification requirements contained in the Order of Notice and as requested by the Hearing Officer were timely fulfilled by MMWEC. At the commencement of the April 26, 2021 hearing, the Hearing Officer noted MMWEC's return of service and proof of publication and notice and stated that "[t]he documents appear to be in order and are accepted as such." (Transcript of Hearing (April 26, 2021), p. 5: 21-22 (hereinafter, "Tr. at ____")).

Consequently, in accordance with Department procedures and requirements, there was widespread and sufficient notice that any person wishing to comment on MMWEC's Petition or intervene in the proceeding had ample opportunity to do so.²

4. MMWEC is the only Party to the Proceeding

The Mass Climate Action Network, Inc. ("MCAN") filed a Petition to Intervene as a full party on April 7, 2021. Peter McAvoy, a Commissioner of the South Hadley Electric Department, filed a form of request apparently seeking leave to intervene as a full party on or about April 20, 2021.

MMWEC filed its Opposition to MCAN's Petition to Intervene on April 9, 2021. MMWEC filed its Opposition to the McAvoy "petition to intervene" on April 23, 2021.

² At the public hearing, the Department heard wide-ranging public comments on the MMWEC Petition. On May 10, 2021, the MMWEC Board of Directors, in light of the public comments and because MMWEC is a public entity (Section II, *infra*), voted to pause MMWEC's efforts on Project 2015A and to request that the Department pause this matter for a minimum of 30 days that was extended for an additional 28 days. (See Section I.A.6, *infra*). As stated in the Supplemental Response to DPU 2-1 and the July 23, 2021 Affidavit of Ronald C. DeCurzio, MMWEC reported to the Department the material changes to its initial filing which resulted from the pause and which are relevant to the scope of the case.

In a four-page ruling, the Hearing Officer denied MCAN's Petition to Intervene as a full party on April 15, 2021, finding among other things, that "...MCAN has failed to demonstrate that it and its members would be substantially and specifically affected by this proceeding". (April 15, 2021 Hearing Officer Ruling on Petition to Intervene, p. 4). However, the Hearing Officer granted MCAN status as a Limited Participant. (*Ibid.*)

In a five-page ruling, the Hearing Officer denied McAvoy's "petition to intervene" on April 23, 2021, stating in relevant part that "...McAvoy has not demonstrated any specific and substantial impact to him, nor that he has standing to represent all South Hadley ratepayers..." (April 23, 2021 Hearing Officer Ruling on Petition to Intervene, p. 4).

Also on April 23, 2021, MCAN appealed the Hearing Officer's denial of MCAN's full party intervenor status to the full Commission of the Department and McAvoy submitted a "Supplement to Petition of Intervenor Status of Peter McAvoy". MMWEC treated McAvoy's submittal as an appeal of the Hearing Officer's denial of McAvoy's intervention status.

On April 30, 2021, MMWEC timely filed its Responses to both MCAN's and McAvoy's appeals of the Hearing Officer's rulings denying full party intervenor status for both. Those appeals remain pending before the full Department Commission.

MCAN is a Limited Participant pursuant to 220 CMR 1.03(1)(e). As a Limited Participant, MCAN had the opportunity to attend the evidentiary hearing, receive copies of all filings and submissions made throughout the course of the proceedings, and may make arguments on brief for the Department's consideration. (See April 15, 2021 Hearing Officer Ruling on Petition to Intervene, p. 4).

As a Limited Participant, MCAN cannot submit evidence, cross-examine witnesses or otherwise participate in the proceeding as a party whose rights, duties and obligations are being adjudicated and, as such, MCAN may not be aggrieved by a final decision. 220 CMR 1.03(1)(e). McAvoy is not a Limited Participant and therefore may not file a brief or reply brief. (See April 23, 2021 Hearing Officer Ruling on Petition to Intervene, p. 4). However, as courtesy, MMWEC has served McAvoy with all filings in this matter.

Thus, as of this date, MMWEC is the only party in interest to DPU 21-29 whose rights, duties and obligations are being adjudicated pursuant to the Massachusetts General Laws and Code of Massachusetts Regulations. There are no full party intervenors.

5. The Evidentiary Record

In support of its Petition, MMWEC presented the Joint Direct Testimony of Ronald C. DeCurzio, Chief Executive Officer of MMWEC, and Glenn Trueira, former General Manager and current consultant to the Peabody Municipal Light Plant (“PMLP”), together with accompanying attachments. The Hearing Officer marked these filings as Exhibit MMWEC-1, Attachments 1 to 8, for identification. (Tr. at 96:4-6). MMWEC also filed the Direct Testimony of Michael Mace, PFM Financial Advisors, LLC together with attachments, which were marked for identification as Exhibit MMWEC-2, Attachments 1 to 2 by the Hearing Officer. (Tr. at 97:10). Finally, MMWEC filed the Direct Testimony of Paul J. Hibbard, Analysis Group, Inc. together with attachments, which were marked for identification as Exhibit MMWEC-3, Attachments 1 to 3 by the Hearing Officer. (Tr. at 98:12).

The Department staff served two sets of information requests on MMWEC. The First Set of Information Requests, consisting of 18 separate requests, was served on MMWEC on March 31, 2021. MMWEC timely responded to all 18 requests. MMWEC’s responses have been marked for identification by the Hearing Officer as Exhibits DPU 1-1 to DPU 1-18 (with accompanying attachments).

Consisting of 6 separate requests, the Second Set of Information Requests from the Department were served on MMWEC on April 15, 2021. MMWEC timely responded to all requests with MMWEC’s responses being marked for identification by the Hearing Officer as Exhibits DPU 2-1 to DPU 2-6 (with accompanying attachments).³

³ On April 23, 2021, MMWEC submitted its Exhibit List to the Hearing Officer. It is MMWEC’s understanding that the Department will enter into evidence all exhibits listed on the Exhibit List, as well as the July 23, 2021 Affidavit of Ronald C. DeCurzio and the July 23, 2021 Supplemental Responses to Exhibits DPU 1-5, 2-1 and 2-6. (See Tr. at 90:18 – 91:10; 96:4-6).

The evidentiary hearing commenced on April 26, 2021 following the public hearing and concluded at 1:26 p.m. (See Tr. at 87 – 124). During the evidentiary hearing, MMWEC's witnesses provided direct testimony, submitted to cross examination by the Department staff and provided re-direct testimony. The transcript of the evidentiary hearing covers 34 pages. Finally, on July 23, 2021, MMWEC supplemented its initial filing through an affidavit of Ronald C. DeCurzio, providing material changes to MMWEC's initial filing. Also on July 23, 2021, MMWEC submitted 3 Supplemental Responses to Department information requests.

Thus, the evidentiary record in this matter consists of: (a) MMWEC Exhibits MMWEC-1 – MMWEC-3, with 13 total attachments, (b) MMWEC's responses to the Department's 24 information requests (MMWEC Exhibits DPU 1-1 to DPU 1-18 and DPU 2-1 to DPU 2-6 (with accompanying attachments)), (c) 34 pages of oral testimony, and (d) MMWEC's material changes to its initial filing as provided in the July 23, 2021 Affidavit of Ronald C. DeCurzio and the Supplemental Responses to Exhibits DPU 1-5, DPU 2-1, and DPU 2-6.

6. The only evidence in this case supports an Order to be issued on August 12, 2021 granting MMWEC's Petition

On May 15, 2021, MMWEC requested that the Department hold the proceedings in abeyance and extend the deadline for filing initial briefs. The Department granted MMWEC's request and ruled that these proceedings would be stayed until June 15, 2021. In her Order on the Stay, the Hearing Officer ordered MMWEC to file, on or before June 15, 2021, an update stating whether MMWEC is prepared to resume this proceeding, whether MMWEC requires additional time to determine when it will be prepared to resume, and, if so, an approximate date when MMWEC will be prepared to resume.

On June 15, 2021, MMWEC filed its First Update as required by the Hearing Officer. MMWEC's First Update provided that MMWEC required additional time to determine when it would be prepared to resume the proceeding and requested the ability to file another update by July 15, 2015. The Hearing Officer issued a Memorandum on June 15, 2021 requiring MMWEC to provide an additional update by July 15, 2021. In response to the June 15, 2021

Hearing Officer Memorandum, on July 15, 2021, MMWEC filed its Second Update requesting that the proceeding resume effective July 29, 2021, with the simultaneous filing of briefs.

On July 20, 2021, the Hearing Officer issued her Memorandum accepting MMWEC's proposed schedule and, among other things, set July 29, 2021, as the date for simultaneously filing initial briefs and August 5, 2021 for the simultaneous filing of reply briefs.

Moreover, in accordance with G.L. c. 164, App., §17, the Hearing Officer set August 12, 2021 as the date of the Department's Order to be issued in this proceeding.

Importantly, in ruling on MCAN's request to reopen the record in this case and to delay the filing of briefs, the Hearing Officer's Memorandum stated:

MCAN also requests that the Department reopen the record (MCAN Response at 2). As a limited participant, MCAN does not have the standing to make such a request. However, the Department does not find good cause to reopen the record at this time. The topics which MCAN wishes to investigate are outside the scope of this proceeding. (July 20, 2021 Hearing Officer Memorandum, p. 2, n.1).

Consequently, the Order in this case must be based on the scope of the proceeding as set by the Notice of Filing. Based on the evidentiary record, pursuant to G.L. c. 164, App., §§ 5(p), 9, 11, and 17, the Department is to determine whether the Initial Issuance and the Refunding Bonds are reasonably necessary for their purposes.

For the reasons set out in the remainder of this Brief and the fact that the only evidence in this case supports it, the Department, in its August 12, 2021 Order, should grant MMWEC the authority to issue revenue bonds, notes, and other evidence of indebtedness to finance MMWEC's Project 2015A because such issuances are reasonably necessary for their purposes in a total aggregate amount not to exceed \$170,000,000 comprised of:

- (1) up to \$85,000,000 of long-term revenue bonds, notes or other evidences of indebtedness, the proceeds of which would be used to own, construct, operate and maintain Project 2015A (the capacity resource) that will provide required capacity and rate stability to MMWEC members (and their customers) who are participating in the capacity resource ("Initial Issuance"); and

(2) up to \$85,000,000 in refunding revenue bonds, notes or other evidences of indebtedness in an appropriate amount and to be issued at appropriate times to refinance all or a portion of the Initial Issuance (“Refunding Bonds”). (Exhibit MMWEC-1, p. 9).

II. MMWEC IS A POLITICAL SUBDIVISION OF THE COMMONWEALTH AUTHORIZED TO FINANCE OWN AND OPERATE ENERGY FACILITIES AND WHOSE POWERS ARE DEEMED AN ESSENTIAL PUBLIC FUNCTION

MMWEC was created by a Special Act of the Massachusetts Legislature. Its enabling legislation is Chapter 775 of the Massachusetts Acts of 1975, (St. 1975, c. 775) as amended (reported at G.L. c. 164, Appendix §§1-1, et. seq., West Ed.) (“Enabling Act”). MMWEC is a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts. (Exhibit MMWEC-1, Attachment 4, §1-2). MMWEC is a public instrumentality and the exercise of its powers is deemed an essential public function. (Exhibit MMWEC-1, Attachment 4, §1-2).

MMWEC is a membership organization. Membership in MMWEC is voluntary. (Exhibit MMWEC-1, p. 14; Exhibit MMWEC-1, Attachment 4, §1-3). MMWEC’s members are comprised of Massachusetts cities and towns that have municipal electric departments and which cities and towns by majority vote became members of MMWEC. (Exhibit MMWEC-1, p. 14; Exhibit MMWEC-1, Attachment 4, §1-3). Any Massachusetts city or town having a municipal electric department may become a member of MMWEC by voting to do so. (Exhibit MMWEC-1, p. 14; Exhibit MMWEC-1, Attachment 4, §1-3). At this time, twenty (20) Massachusetts cities and towns having municipal electric departments are MMWEC members. (Exhibit MMWEC-1, p. 1).

A. MMWEC’s Authority to Issue Debt for its Corporate Purposes is Contained in its Enabling Act

Pursuant to its Enabling Act, MMWEC may borrow money by the issue of its bonds for any of its corporate purposes. (Exhibit MMWEC-1, Attachment 4, §1-9). MMWEC must obtain approval of the Department for the issuance of bonds, notes or other evidences of indebtedness that are payable at time periods of greater than one year after the date of issue.

(Exhibit MMWEC-1, Attachment 4, §1-17).

MMWEC is authorized to finance, construct, operate, use, and maintain “energy facilities” as defined in the Enabling Act. (Exhibit MMWEC-1, Attachment 4, §1-5(p)). Project 2015A (the capacity resource) is included in the Enabling Act’s definition of “energy facility”, which definition includes “an electric power facility, or a system or facility, ... or right to the use of services derived from the facility or system or a part of thereof ... for the manufacture, generation, transmission, distribution, transformation, transportation, storage, purchase, sale, exchange or interchange or conservation of energy or any by-products or ancillary products thereof or services derived therefrom by any means.” (Exhibit MMWEC-1, Attachment 4, §1-1). MMWEC also is authorized to issue refunding bonds, subject to the Department’s approval under the Enabling Act. (Exhibit MMWEC-1, Attachment 4, §1-11).

B. The Purposes of the Initial Issuance and the Refunding Bond Issuance are Reasonably Necessary and Consistent with MMWEC’s Authority

The purpose of the Initial Issuance is to pay for the cost of acquisition and construction of Project 2015A, including contingencies, for the benefit of the members of MMWEC who are participating in Project 2015A (“Project Participants⁴”). (Exhibit MMWEC-1, p. 11). The financing authority requested for the Initial Issuance is based on the estimated cost of acquisition and construction of Project 2015A and ancillary equipment, funding of previously capitalized costs, plus potential additions and a contingency for construction disruption or cost increases due to possible the impact of COVID-19. (Exhibit MMWEC-1, p. 11). That total is estimated to be approximately \$84.3 Million, exclusive of financing costs. (Exhibit MMWEC-1, p. 12).

⁴ There are fourteen (14) Project Participants. (Exhibit MMWEC-1, p.27). Based on their respective long-term portfolio plans, Project Participants Holyoke Gas & Electric Department (“HGED”) and Chicopee Municipal Lighting Plant (“CMLP”) have requested to withdraw their participation. (Tr. at 99:5-24). This does not mean that they are no longer Project Participants. Rather, it means that MMWEC will use it best efforts to sell their respective “Participant’s Share” in accordance with Section 12.1 the Power Sales Agreement for Project 2015A (“PSA”). (Tr. at 99:5-24; Exhibit MMWEC-1, Attachment 7). HGED and CMLP are obligated for less than 5 MWs of Project 2015A. (Exhibit MMWEC-1, Attachment 7).

The purpose of the Refunding Bonds authority requested by MMWEC is to refund all or part of the Initial Issuance as the public interest, economic circumstances, and the interest rate environment, or other factors such as changes in tax laws, make such refunding beneficial to the Project Participants and their customers. (Exhibit MMWEC-1, p. 12).

III. THE DEPARTMENT'S STANDARD OF REVIEW REQUIRES IT TO DETERMINE WHETHER THE PROPOSED MMWEC BORROWING IS REASONABLY NECESSARY

As discussed in Sections I and II of this Brief, the only evidence in this record clearly and unambiguously shows that the bonding authority requested by MMWEC accomplishes the purpose of financing a capacity resource to help Project Participants meet their capacity obligations with stable rates at the lowest possible costs, thereby meeting MMWEC's service obligations to its members, which are public entities, as efficiently as possible.

To approve MMWEC's issuance of bonds, the Department must determine that the proposed borrowing is reasonably necessary to accomplish some legitimate purpose in meeting MMWEC's service obligations, pursuant to G.L. c. 164, App. §§ 1-9, 1-11, 1-17. *Massachusetts Municipal Wholesale Electric Company*, D.P.U. 13-162 at 13 (2014), *citing Fitchburg Gas and Electric Light Company v. Department of Public Utilities*, 395 Mass. 836, 842 (1985) ("Fitchburg II"), *Fitchburg Gas and Electric Light Company v. Department of Public Utilities*, 394 Mass. 671, 678 (1985) ("Fitchburg I"). The Department's authority under G.L. c. 164, App. § 1-17 to determine whether MMWEC's issuance of bonds is "reasonably necessary" is similar, but not identical to the Department's authority under G.L. c. 164, § 14 to make a similar determination for electric and gas companies. *Massachusetts Municipal Wholesale Electric Company*, D.P.U. 13-162 at 13 (2014), *citing Fitchburg II* at 841-843; *see also Massachusetts Municipal Wholesale Electric Company*, D.P.U. 89-230, at 10 n.4 (1992).

The Supreme Judicial Court has found that, for the purposes of G.L. c. 164, § 14 and G.L. c. 164, App. § 1-17, "reasonably necessary" means "reasonably necessary for the accomplishment of some purpose having to do with the obligations of the company to the public and its ability to carry out those obligations with the greatest possible efficiency."

Massachusetts Municipal Wholesale Electric Company, D.P.U. 13-162 at 13-14 (2014) *citing Fitchburg II* at 842 and *Lowell Gas Light Company v. Department of Public Utilities*, 319 Mass. 46, 52 (1946) (“Lowell Gas”).

Therefore, the Department must limit its review to a determination of reasonableness of the MMWEC’s proposed use of the proceeds and the reasonable necessity of a bond issuance. *Canal Electric Company*, D.P.U. 84-152, at 20 (1985); *see, e.g., Colonial Gas Company*, D.P.U. 90-50, at 6-7 (1990). In exercising its review of the MMWEC Petition and the evidence, the Department should be mindful that all 14 Project Participants independently voted to participate in Project 2015A. See Section IV, *infra*.

A. The Initial Issuance and Refunding Bonds are Reasonably Necessary for their Purposes

The Initial Issuance is reasonably necessary to finance Project 2015A because Project 2015A will provide both capacity and rate stability to the Project Participants while meeting a portion of the Project Participants’ absolute obligation to have sufficient capacity for their loads. (Exhibit MMWEC-1, p. 10). Project 2015A will simultaneously provide a means to reduce carbon emissions for the Project Participants and provide Independent System Operator – New England (“ISO”) system reliability, thereby creating a transition to decarbonization. (Exhibit MMWEC-1, p. 10).

The authority to issue Refunding Bonds is reasonably necessary at this time in order to provide MMWEC with the flexibility to refinance and refund the Initial Issuance at times when the interest rate environment or other factors make it economic and advantageous and in the public interest for MMWEC to issue the Refunding Bonds. (Exhibit MMWEC-1, p. 10).

1. The Initial Issuance and the Refunding Bonds are Reasonably Necessary to Finance Project 2015A in Order to Help Meet Participants’ Capacity Obligations and Provide Rate Stability at the Lowest Possible Cost

a. All MMWEC Members have an ISO Capacity Requirement

The ISO fulfills its responsibility to ensure that there is enough capacity and energy in New England to meet all of the electric power needs of the region by requiring all load serving

entities to have sufficient capacity⁵ and energy⁶ to meet their respective loads. (Exhibit MMWEC-1, p. 16). Thus, the ISO imposes a capacity and energy requirement on each load serving entity. (Exhibit MMWEC-1, p. 16). The capacity required by the ISO for a load serving entity is based on the load serving entity's peak hourly demand from the prior power year, plus a reserve requirement as set from time to time by the ISO. (Exhibit MMWEC-1, p. 18).

MMWEC's members, which are cities and towns having municipal electric departments, are load serving entities that are subject to the ISO capacity and energy requirements. (Exhibit MMWEC-1, pp. 15-16). In order to meet these ISO-imposed requirements, MMWEC's members can either own generation to provide capacity and energy, contract for capacity and energy, or purchase capacity and energy from the ISO in the open ISO markets. (Exhibit MMWEC-1, p. 17).

b. MMWEC Members' Capacity Load Obligation and Capacity Supply Obligation are Absolute Obligations Having Financial Implications for Each MMWEC Member

Each MMWEC member has an absolute obligation to purchase from the ISO a sufficient quantity of capacity (MWs) to meet its peak demand plus a reserve requirement. (Exhibit MMWEC-1, pp. 19, 21). This is called the Capacity Load Obligation ("CLO"). (Exhibit MMWEC-1, p. 19; Exhibit MMWEC-3,p.7). Historically, the reserve requirement in the ISO for capacity has been about 40%. (Exhibit MMWEC-1, pp. 19, 21). For MMWEC's members, the CLO is a financial responsibility that is always present and must be met by each MMWEC member. (Exhibit MMWEC-1, p. 19).

The amount of capacity an MMWEC member owns and for which it has contract entitlements must be made available to the ISO markets to help provide sufficient capacity and

⁵ Capacity is the ability to generate electricity. It is measured in megawatts ("MWs"). The ability to generate electricity must be available at all times. However, not all of the capacity is needed at all times. (Exhibit MMWEC-1, p. 18).

⁶ Energy is the amount of electricity used by customers. Energy is measured in megawatt hours ("MWH"). Energy must be available whenever a customer needs to use electricity for any purpose. Exhibit MMWEC-1, p. 18)

reserves for the region. (Exhibit MMWEC-1, p. 19). This is called the Capacity Supply Obligation (“CSO”). (Exhibit MMWEC-1, p. 19; Exhibit MMWEC-3, p. 7).

c. ISO Netting Process for CSO and CLO Has a Financial Impact on MMWEC Members

An entity supplying CSO is compensated by the price of capacity in the ISO markets. (Exhibit MMWEC-1, p. 19). An entity with a CLO pays a price for the capacity it needs. (Exhibit MMWEC-1, p. 19). Thus, when an MMWEC member makes available the capacity from its generation and contract entitlements for CSO, it is compensated through the ISO markets. (Exhibit MMWEC-1, pp. 19-20).

Each of MMWEC’s members needs capacity (MWs) to meet its CLO and, in accordance with the ISO market rules, purchases 100% of that capacity in the ISO markets. (Exhibit MMWEC-1, pp. 20-21). An MMWEC member makes available all of its capacity (CSO) to the ISO for which it receives revenues but must purchase from the ISO all of the capacity it needs to serve its load (CLO), for which it pays a total cost. (Exhibit MMWEC-1, p. 20).

The ISO netting of the revenue the MMWEC member receives for the CSO against the total of the amount paid by the MMWEC member for the CLO has a financial impact on the MMWEC member. (Exhibit MMWEC-1, p. 20).

d. MMWEC Members are exposed to Price Volatility in the ISO Capacity Markets

Where an MMWEC member’s CSO does not equal 100% of its CLO, the MMWEC member must purchase the difference through the ISO’s open capacity market. (Exhibit MMWEC-1, p. 20). Therefore, when an MMWEC member purchases 100% of its CLO, some of the CLO capacity it purchases from the ISO does not have any offsets (CSO – MMWEC member owned or entitlements) to the ISO capacity prices. (Exhibit MMWEC-1, p. 20). This exposes the MMWEC member to market prices for that MW difference without any hedge against those prices. (Exhibit MMWEC-1, p. 20).

Consequently, the MMWEC member must balance the cost and amount of capacity it owns and for which it has entitlements in its CSO against the price and amount and price of

unhedged capacity it needs to purchase in the ISO markets for its CLO obligations. (Exhibit MMWEC-1, p. 20; Tr. at 112: 14 – 113:7).

Thus, the price of capacity in the ISO markets has a discernable impact on an MMWEC member's obligation to provide its customers with electricity at the lowest possible cost and to provide rate stability. (Exhibit MMWEC-1, p. 20). This can result in the MMWEC member being exposed to capacity price fluctuations in the ISO markets and its customers in turn would not have price stability. (Exhibit MMWEC-1, p. 20).

e. Rate Stability at the Lowest Possible Cost is an Objective of MMWEC Members

MMWEC's members share the very important and essential objective of meeting their obligations while maintaining rate stability. (Exhibit MMWEC-1, p. 16). Rate stability also is a key objective in fulfilling MMWEC's member obligations. (Exhibit MMWEC-1, p. 23). This objective is accomplished by MMWEC's members obtaining a diverse mix of resources to meet their capacity and energy requirements, while minimizing risk, and maximizing long term viability, sustainability and rate stability. (Exhibit MMWEC-1, p. 16).

The portion of the CSO that is not covered by capacity that an MMWEC member owns or for which it has entitlements presents uncertainty. (Tr. at 112:10-13). The exposure to capacity price fluctuations would be averse to the MMWEC member's objective of rate stability and would have an adverse effect on member rates over time. (Exhibit MMWEC-1, p. 20).

In 2020, the MMWEC members offset only 393 MWs of their 872 MW CLO through asset ownership or from contracted sources such as MMWEC project entitlements. (Exhibit MMWEC-1, p. 22). This 479 MW difference, which must be purchased from the ISO open capacity market, exposes MMWEC members to price fluctuations in the ISO capacity markets. (Exhibit MMWEC-1, p. 22).

Project 2015A would allow each participating MMWEC member to hedge its open capacity position by the amount of Project Capability for which the member has contracted in Project 2015A. (Exhibit MMWEC-1, p. 26). This provides for more rate stability because it

decreases the MMWEC member's exposure to capacity price fluctuations in the ISO market. (Exhibit MMWEC-1, p. 22).

2. MMWEC's Obligations to its Members

a. The Service Agreement

MMWEC and each of its members have entered into a "Service Agreement", pursuant to which MMWEC provides its members with a variety of power planning, development, and administrative services for purposes of meeting their electric capacity and energy requirements in a reliable and cost-effective manner. (Exhibit MMWEC-1, p. 22). Among other things, MMWEC constantly monitors the ISO markets, makes cost, price, and demand projections, monitors the load of its members, and provides timely and accurate information for decision making by its members. (Exhibit MMWEC-1, p. 22).

On behalf of its members, MMWEC also monitors the ISO netting processes for the CSO and CLO. (Exhibit MMWEC-1, p. 23). MMWEC, as the agent of its members, interacts in the ISO markets everyday - 24/7/365. (Exhibit MMWEC-1, p. 23).

b. MMWEC Projects – Obligations & Rate Stability

All of these efforts are designed for MMWEC to assist its members in meeting their rate and price stability objectives and obligations. (Exhibit MMWEC-1, p. 23). Rate stability is a key objective in fulfilling MMWEC's members' obligations. (Exhibit MMWEC-1, p. 25). One result of such efforts is an MMWEC project. (Exhibit MMWEC-1, p. 23).

MMWEC evaluates and makes recommendations on various options to meet member capacity and energy requirements through facility ownership, to the extent ownership meets the objectives of its members. (Exhibit MMWEC-1, p. 23). When there is sufficient interest in a facility, under its Service Agreement, MMWEC creates a planning, acquisition, and finance vehicle, called a "project", through which MMWEC acquires an ownership interest in the facility. When MMWEC creates a project, participation in the project relating to a particular facility is at the option of, and subject to the approval of, the individual member. (Exhibit MMWEC-1, p. 23).

Once a member determines to participate in a project, it executes a Power Sales Agreement (“PSA”) with MMWEC. (Exhibit MMWEC-1, p. 23). Member and non-member municipal electric departments (and other utilities) entering into a PSA with MMWEC obtain shares of the project’s capability (*i.e.* the amounts of electric capacity and energy, if any, which the project is capable of producing at any particular time). (Exhibit MMWEC-1, p. 23). A municipal electric department (or other utility) entering into a PSA with MMWEC on behalf of its respective city or town becomes a “project participant” of the project. (Exhibit MMWEC-1, p. 23). The ISO treats such capacity and energy as the capacity and energy of the project participant. (Exhibit MMWEC-1, p. 23).

In accordance with MMWEC’s obligations under the Service Agreement, MMWEC studied the price of and need for capacity in the ISO capacity markets for its members. (Exhibit MMWEC-1, p. 24). MMWEC concluded that there is a tremendous amount of price volatility in the capacity market. (Exhibit MMWEC-1, p. 25). Accordingly, MMWEC’s members, because they must have sufficient capacity to meet their loads, would be subject to this price volatility in serving their customers. (Exhibit MMWEC-1, p. 25).

MMWEC then looked at how much each member would be exposed to that price volatility. (Exhibit MMWEC-1, p. 25). MMWEC found that, on average, for 2020 the MMWEC members owned or had contract entitlements offsetting approximately 58% of their capacity needs leaving approximately 42% of those capacity needs “open” to the capacity market price volatility not offset by MMWEC member owned or contract entitlement capacity. (Exhibit MMWEC-1, p. 26). This means that the significant price volatility affected approximately 42% of the MMWEC member capacity needs. (Exhibit MMWEC-1, p. 26; Exhibit MMWEC-1, Attachment 5). MMWEC recommended that its members mitigate their exposure to this price volatility with a capacity resource. (Exhibit MMWEC-1, p. 26).

IV. CREATION OF PROJECT 2015A AS A CAPACITY RESOURCE TO HEDGE ISO CAPACITY PRICE VOLATILITY AT THE LOWEST POSSIBLE COST

MMWEC created a project for the financing of the capacity resource, which became known as Project 2015A. (Exhibit MMWEC-1, p. 27). The municipal light boards or boards of commissioners of the Project Participants voted for their respective municipal electric departments to participate in Project 2015A and authorized their respective managers to execute a PSA for Project 2015A (the "Project PSA"). (Exhibit MMWEC-1, p. 27; Exhibit MMWEC-1, Attachment 7).

The capacity resource known as Project 2015A is a new, highly efficient, fast-starting, nominal sixty megawatt (60 MW) dual fuel simple cycle peaking electric generating unit and ancillary equipment to be owned by MMWEC and located in Peabody, Massachusetts at the location of the PMLP Waters River Station Site. (Exhibit MMWEC-1, p. 12; Exhibit MMWEC-1, Attachment 2).

Project 2015A has been reviewed by the Massachusetts Environmental Policy Act ("MEPA") Office, which issued a MEPA certificate. (Exhibit DPU-2-6; Exhibit DPU2-6, Attachment 1). Project 2015A also has been reviewed by the Massachusetts of Department of Environmental Protection ("MA-DEP"), which issued a Final Air Quality Plan Approval (a/k/a the Air Permit). (Exhibit DPU-2-6; Exhibit DPU 2-6, Attachment 2). MA-DEP also issued an EPA Acid Rain Permit (Exhibit DPU-2-6; Exhibit DP 2-6, Attachment 3).

A. Project 2015A Assists Project Participants in Fulfilling Their Capacity Obligations and Rate Stability

Project 2015A is needed primarily to meet the regional capacity obligations of the Project Participants. (Exhibit MMWEC-3, p. 10). The full rated capacity of Project 2015A will count towards the CLO of the Project Participants, and in combination with other resources, will help fully satisfy their capacity market obligations. (Exhibit MMWEC-3, p. 10; Tr. at 110:13 - 112: 13).

While MMWEC and the Project Participants view the development and acquisition of greenhouse gas ("GHG")-free resources as part of their continuing commitment to be a partner

with the Commonwealth in meeting GHG emission reduction requirements and targets, there are practical and economic limits to relying on wind and solar resources to meet the Project Participants' capacity market obligations. (Exhibit MMWEC-3, p. 10).

Wind and solar resources exhibit significant output variability, have low capacity factors relative to other low-GHG (e.g. nuclear and hydro) and some fossil resources, and often may not be available when needed under monthly peak load conditions. (Exhibit MMWEC-3, p. 10; Tr.at 114:14 - 115: 3-16).

Because of the intermittent nature of many renewable technologies, carbon-free energy resources are extremely inefficient at providing capacity. (Exhibit MMWEC-1, p. 36). As such, while they satisfy a large portion of the Project Participants' energy needs, they do not provide capacity efficiently and cost effectively. (Exhibit MMWEC-1, p. 36). Therefore, the need for carbon-free energy cannot be met with the same resource that provides capacity, which is why a peaking plant such as Project 2015A is such a good capacity/energy match with carbon-free, renewable energy projects. (Exhibit MMWEC-1, p. 36).

Resources that are used to meet the capacity obligation are evaluated by the ISO to determine what their "qualified capacity" is - in effect, what portion of capacity from a resource can be counted on when needed to maintain system reliability under peak load conditions and, thus, what portion of the capacity is "qualified" as a capacity market resource. (Exhibit MMWEC-3, p. 10). Resource owners are not allowed to claim their full output potential in the capacity market or even an amount that reflects their annual capacity factor; instead, their maximum output is reduced to account for historic availability of the unit at times of peak demand. (Exhibit MMWEC-3, pp. 10-11).

Thus, in order to achieve the equivalent capacity value (and thereby maintain system reliability) as the proposed 60MW of Project 2015A through the acquisition of renewable resources, MMWEC would need to develop or purchase several hundred to thousands of MWs of renewable resources, which would be impracticable and prohibitively expensive. (Exhibit MMWEC-3, p. 12). During the "pause" time period of May 12, 2021 to July 15, 2021, among

other activities, MMWEC considered alternative technologies, including battery storage. (July 23, 2021 Supplemental Response to Exhibit DPU 2-1). MMWEC determined that the capacity resource remains the most effective resource for the Project Participants to fulfill their CSO at the lowest cost and to achieve the objective of rate stability. (July 23, 2021 Supplemental Response to Exhibit DPU 2-1).

B. Project 2015A will provide a Hedge Against Price Volatility for Project Participants

Capacity prices in the ISO markets are set in accordance with the Forward Capacity Auctions (“FCA”) held each year. (Exhibit MMWEC-1, p. 25). Essentially, in each auction, parties desiring to offer capacity into the ISO capacity market bid prices into the auction for capacity which each such party is willing to accept. (Exhibit MMWEC-1, p. 25). All of the MWs from both existing and new capacity sources are then totaled and compared to the total peak capacity needs of the New England region, plus needed reserves for the year associated with the FCA. (Exhibit MMWEC-1, p. 25). If the MW total exceeds the ISO capacity requirement for that year, the auction becomes a descending price auction where the price for capacity is lowered in a descending fashion from a pre-determined starting point. (Exhibit MMWEC-1, p. 25). The clearing price of capacity in the ISO capacity market and the projected clearing price for capacity into the future varies significantly. (Exhibit MMWEC-1, p. 25; Exhibit MMWEC-1, Attachment 5).

Pricing in the FCAs is notably volatile and uncertain, particularly at this point in time. (Exhibit MMWEC-3, p. 13). While there has always been uncertainty and volatility in the FCA, current conditions and disputes over the capacity market design threaten to sustain a higher level of uncertainty around FCA results on a going-forward basis. (Exhibit MMWEC-3, p. 13; Exhibit MMWEC-1, Attachment 5; Tr. at 102:3 – 103:4).

MMWEC recommended to each of its members that had a significant “open” position to capacity price volatility that it become a Project Participant. (Exhibit MMWEC-1, p. 26). Project 2015A is a capacity resource not an energy resource. (Exhibit MMWEC-1, p. 35). As

such, it will serve as a hedge against the price volatility for capacity. (Exhibit MMWEC-1, p. 35).

Absent a stable priced capacity resource, the Project Participants would need to rely on acquiring capacity resources in the same amounts through annual FCAs or through bilateral contractual arrangements with ISO market participants selling capacity at prices that are generally tethered to prices resulting from the FCAs. (Exhibit MMWEC-3, p. 13). Project 2015A represents an efficient, low cost flexible capacity and peaking resource that will be a part of the capacity resource portfolio used to meet the CLO of the Project Participants in the forward capacity market ("FCM"). (Exhibit MMWEC-3, p. 13).

Project 2015A would offset the price volatility to which the Project Participants will be exposed in order to meet their capacity obligations by adding approximately 8% more owned/entitlement capacity to their capacity resources. (Exhibit MMWEC-1, p. 26; Exhibit MMWEC-1, Attachment 6). Going forward, it is projected that Project 2015A would lower the exposure to price volatility for the Project Participants from about 52% to about 44% of their capacity needs. (Exhibit MMWEC-1, p. 26).

In order to provide rate stability to the Project Participants, the debt service on the bonds to be issued will be levelized, *i.e.* the annual total of principal and interest payments for each and every year to be roughly equal to the annual total of principal and interest payments in all other years. (Exhibit MMWEC-2, p. 16; Exhibit MMWEC-2, Attachment 2). The levelized debt service will assist each Project Participant in keeping the rates to be charged to their customers stable because of the known cost for the capacity associated with Project 2015A over the life of the bonds used to finance the capacity resource. (Exhibit MMWEC-2, p. 16). Similarly, the known levelized debt service will hedge against price instability for capacity in the capacity markets. (Exhibit MMWEC-2, p. 16).

V. PROJECT 2015A ASSISTS IN THE TRANSITION TO DE-CARBONIZATION OF ENERGY

As an ancillary benefit, Project 2015A will accommodate the growth of renewable and non-carbon emitting sources in the region, by providing fast starting capability and ramping support for the times when weather patterns compromise renewable production. (Exhibit MMWEC-1, p. 33). The Massachusetts municipal electric departments filed a bill with the Massachusetts Legislature that would establish the energy sold by the electric departments to their customers must be 50% non-carbon emitting by 2030, 75% non-carbon emitting by 2040, and 100% non-carbon emitting by 2050. (Exhibit MMWEC-1, p. 34). The Legislature adopted this recommendation in recently passed legislation. (Exhibit MMWEC-1, p. 34; *An Act Creating A Next-Generation Roadmap For Massachusetts Climate Policy*, 2021 Mass. Acts 8 (“St. 2021, c.8”)).

A full 53% of energy supplied to MMWEC member systems comes from non-carbon emitting resources such as wind, solar, hydro, and nuclear. (Exhibit MMWEC-1, p. 33). However, to continue to meet the demands of the Project Participants and their customers in meeting the goals of the 2008 Global Warming Solutions Act (“GWSA”) and St. 2021, c.8, the recently passed legislation, MMWEC and its Project Participants will continue to invest in resources that provide carbon free energy. (Exhibit MMWEC-1, pp. 33-34).

Because Project 2015A is intended to provide peaking capacity only, the simplicity of the combustion turbine supports the goal of reducing dependence on ISO capacity markets to meet CLO while providing financial and logistical benefits to ratepayers and the local community, without creating a harmful amount of emissions. (Exhibit MMWEC-3, p. 23) This is because, as a peaking resource, it will operate in limited hours of the year, with minimal energy production and associated emissions. (Exhibit MMWEC-3, p. 23).

VI. THE DEPARTMENT HAS PREVIOUSLY APPROVED APPROXIMATELY \$7 BILLION IN MMWEC REVENUE BONDS USING THE SAME PROVISIONS OF THE ENABLING ACT AND THE SAME STRUCTURE AS PROJECT 2015A

A. Authority for MMWEC to Issue Debt Previously Granted by the Department

The Department previously has approved MMWEC's debt issuances to finance ownership interests in generating facilities. See e.g. *Re MMWEC, DPU 18779* (Aug. 9, 1976) (approval of MMWEC's issue of bonds in principal amounts not exceeding \$355,000,000 for its share of project costs of four nuclear generating units); *Re MMWEC, DPU 18924-A* (Feb. 15, 1977)(approval of MMWEC's issue of bonds in principal amounts not exceeding \$290,000,000 for combined cycle electric generating units, related transmission facilities and project costs); *Re MMWEC, DPU 19167* (July 7, 1977) (approval of MMWEC's issue of bonds in principal amounts not exceeding \$70,000,000 for costs associated with its ownership interest in a nuclear generating unit); *Re MMWEC, DPU 19325* (approval of MMWEC's issue of bonds in principal amounts not exceeding \$220,000,000 for costs associated with its ownership interest in a nuclear generating unit); *Re MMWEC, DPU 86-38* (January 4, 1987) (approval of MMWEC's issue of bonds in principal amounts not exceeding \$164,500,000 for costs associated with projects for ownership interests in a nuclear generating units). (Exhibit MMWEC-1, Attachment 8).

The Department also previously has approved MMWEC's issuances of refunding bonds. (Exhibit MMWEC-1, Attachment 8); see e.g. *Re MMWEC, DPU 92-235* (Jan. 8, 1993)(approval of borrowing by the issuance of bonds or other forms of indebtedness in total principal amount not exceeding \$504,420,000 for purposes of refunding); *Re MMWEC, DPU 93-159* (approval of borrowing by the issuance of bonds or other forms of indebtedness in total principal amount not exceeding \$1,165,890,000 for purposes of refunding); *Re MMWEC, DPU 99-91* (March 24, 2000)(approval of borrowing by the issuance of bonds or other forms of indebtedness in total principal amount not exceeding \$1,1590,056 for purposes of refunding).

In addition, the Department previously has simultaneously approved MMWEC's issuance of both revenue bonds to finance assets and refunding bonds to refund those initial issuances with respect to the funding of MMWEC's Pooled Loan Program. (Exhibit MMWEC-1, Attachment 8); *Re MMWEC, DPU 13-162* (April 24, 2014) (approval of the issuance of bonds or other forms of indebtedness including refunding bonds, in a total aggregate amount not to exceed \$400,000,000).

MMWEC has issued approximately \$23.7 million of short-term commercial paper and has in place a \$25 million line of credit and a \$15 million line of credit with a commercial bank. (Exhibit MMWEC-1, p. 30). MMWEC has issued and currently has outstanding approximately \$27.5 million derived from a revolving line of credit notes with commercial banks for its Pooled Loan Program. (Exhibit MMWEC-1, p. 30; Exhibit DPU-1-6; July 23, 2021 Affidavit of Ronald C. DeCurzio).

As of July 1, 2019, MMWEC has no long-term debt outstanding for its power projects and ownership of Seabrook, Millstone Unit No 3, the Stony Brook Intermediate Unit and the Stony Brook Peaking Unit. (Exhibit MMWEC-1, p. 31). Thus, MMWEC has financed and refinanced its power supply program assets and as of today has paid off all of that debt. (Exhibit MMWEC-1, p. 31).

The only MMWEC long-term debt that remains outstanding is associated with the Pooled Loan Program. (Exhibit MMWEC-1, p. 31; Exhibit DPU-1-6; July 23, 2021 Affidavit of Ronald C. DeCurzio).

VII. THE FINANCIAL STRUCTURE OF PROJECT 2015A IS IDENTICAL TO THE STRUCTURE OF OTHER MMWEC PROJECTS FOR WHICH THE DEPARTMENT AUTHORIZED MMWEC TO ISSUE LONG TERM DEBT

A. Security for the Revenue Bonds Issued to Finance Project 2015A

In accordance with Section 6 of the Enabling Act, the Project PSA has the "take or pay" provision imposing the unconditional obligation on the Project Participant to pay for the Project Capability (as defined in the PSA) purchased under the Project PSA, whether or not the resource that is the source of the capacity and energy "is undertaken, completed, operable

or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of the [facility].” (Exhibit MMWEC-1, p. 29; Exhibit MMWEC-1, Attachment 7; Exhibit MMWEC-2, pp.9-10).The Project PSA also imposes an obligation on the Project Participants to set their rates at levels sufficient to enable the Project Participants to meet their unconditional payment obligations under the Project PSAs. (Exhibit MMWEC-1, p. 29; Exhibit MMWEC-1, Attachment 7; Exhibit MMWEC-2, pp. 9-10).

These provisions guarantee MMWEC a stream of revenues with which to pay principal and interest on the debt issued to finance the acquisition of MMWEC’s ownership of the generating facilities in Project 2015A. (Exhibit MMWEC-1, p. 29; Exhibit MMWEC-2, pp. 9-10). This stream of revenues derived from the Project PSAs are the “Revenues” (as defined in MMWEC’s General Bond Resolution) MMWEC pledges to the repayment of the bonds. (Exhibit MMWEC-1, p. 29; Exhibit MMWEC-2, pp. 9-10; Exhibit MMWEC-2, Attachment 1). This is known as revenue bond financing and why the bonds are called “revenue bonds”. (Exhibit MMWEC-1, p. 29; Exhibit MMWEC-2, pp. 9-10; Exhibit MMWEC-1, Attachment 7).

B. The Anticipated Approach for the Initial Issuance is the same as the Approach Used Previously by MMWEC in the Issuance of Revenue Bonds

It is anticipated that the bonds comprising the Initial Issuance would be issued through a public offering, which is consistent with virtually all other long-term bonds issued by MMWEC. (Exhibit MMWEC-2, p. 17). MMWEC would engage one or more investment banks to underwrite the Initial Issuance by purchasing the bonds from MMWEC. (Exhibit MMWEC-2, p. 17). The underwriters in turn would sell the bonds comprising the Initial Issuance to the public, often to banks, insurance companies and bond funds or mutual funds. (Exhibit MMWEC-2, p. 17). It is also expected that bonds would be made available to smaller “retail” investors as appropriate. (Exhibit MMWEC-2, p. 17).

C. General Bond Resolution & Supplemental Resolution

MMWEC’s General Bond Resolution sets forth the provisions and conditions for the issuance of bonds, notes and other evidences of indebtedness and the security and sources

of payment for bonds issued by MMWEC pursuant to the General Bond Resolution. (Exhibit MMWEC-2, p. 10). The Initial Issuance would be contained in a Supplemental Resolution. (Exhibit MMWEC-2, p. 10).

For Project 2015A, in accordance with the General Bond Resolution, the following three funds would be established: (1) a “Revenue Fund”, (2) a “Bond Fund”, consisting of the debt service accounts and a reserve account consisting of separate subaccounts established with respect to one or more series of bonds issued with respect to such project, and (3) a “Reserve and Contingency Fund” (all as defined in MMWEC’s General Bond Resolution). (Exhibit MMWEC-2, p. 10; Exhibit MMWEC-2, Attachment 1).

MMWEC will pay into the Revenue Fund all revenues attributable to Project 2015A. (Exhibit MMWEC-2, p. 12). The Bond Fund will be used solely for the purpose of paying the principal of, premium, if any, and interest on the bonds issued for Project 2015A and of retiring such bonds prior to maturity in the manner provided in the General Bond Resolution. (Exhibit MMWEC-2, p. 12).

The Bond Fund will include a Debt Service Account and Reserve Account. (Exhibit MMWEC-2, p. 12). The Supplemental Resolution will provide that, from the revenues in the Revenue Fund for Project 2015A, MMWEC will pay into the Bond Fund for credit to the Debt Service Account (i) the interest due on all Bonds issued for Project 2015A, (ii) the principal due on bonds issued for Project 2015A, (iii) the sinking fund installments due on any term bonds issued with respect to Project 2015A, and (iv) the principal accrued on all notes issued, if any, with respect to Project 2015A. (Exhibit MMWEC-2, p. 12). The Reserve Account will be created to provide security for the bonds issued for Project 2015A. (Exhibit MMWEC-2, p. 12).

D. Estimated Interest Rate for the Bonds

Under current bond market conditions, many long-term, fixed-rate, tax exempt bond transactions include a range of coupons. (Exhibit MMWEC-2, pp. 14-15; Exhibit DPU 1-13; Tr. at 106:22 – 108:10). While the overall industry-standard coupon continues to be a 5% premium

bond, many transactions over the past year have included 4% coupons, and even 3% and lower coupons. (Exhibit DPU 1-13).

Coupon rates are the interest rates that the bonds would bear nominally. (Tr. at 106:23-107:1) Bonds are sold at a premium (in excess of the par amount) because the coupon rate is higher than the actual earnings rate on the bond. (Tr. at 107:4-10). The offering yield is typically lower than the coupon rate. (Tr. at 107:1-4).

Actual coupons and yields will be based on market conditions at the time of sale, but a mix of 4% and 5% coupons is reasonable to reflect a likely couponing structure. (Exhibit MMWEC-2, pp. 14-15; Exhibit DPU 1-13; Tr. at 106:22 – 108:10). There has been no material change to the estimated interest rate for the bonds since the filing of the Direct Testimony of Michael Mace or since May 12, 2021, when DPU 21-29 was placed on hold. (See July 23, 2021 Affidavit of Ronald C. DeCurzio).

E. Refunding the Initial Issuance

MMWEC would refund all or a portion of the Initial Issuance through either (1) an advance refunding or (2) a current refunding. (Exhibit MMWEC-2, p. 18). An advance refunding is necessary if the bonds to be refunded are not currently callable. (Exhibit MMWEC-2, p. 18). A current refunding will be used if the bonds to be refunded are callable within 90 days of issuing the refunding bonds. (Exhibit MMWEC-2, p. 18). The prevailing interest rates and tax laws at the time of a refunding would dictate the timing, type, and size of any refunding. (Exhibit MMWEC-2, p. 17).

Providing MMWEC with the means, flexibility, and authority now to refinance debt for future savings would allow MMWEC to issue Refunding Bonds as quickly as possible to take advantage of favorable interest rates and market developments for the benefit of the Project Participants. (Exhibit MMWEC-2, p. 18).

VIII. CONCLUSION

The record in this proceeding demonstrates that MMWEC's request for approval to issue revenue bonds, notes or other evidences of indebtedness in a total aggregate amount not to exceed \$170,000,000 is reasonably necessary to accomplish and meet MMWEC's service obligations, pursuant to its Enabling Act. The record shows that the requested approval is reasonably necessary to: (1) fund the ownership, construction, operation and maintenance of a capacity resource that will provide required capacity and rate stability to the Project Participants; and (2) provide MMWEC with the means, flexibility, and authority now to refinance debt for future savings to benefit the Project Participants.

Therefore, for the reasons stated above, MMWEC respectfully requests that the Department:

FIND: That the Initial Issuance in an amount not to exceed \$85,000,000 is reasonably necessary for the purposes of financing the construction, ownership, operation and maintenance of the capacity resource because the capacity resource will provide MMWEC with the ability to own, construct and operate a resource that will provide required capacity and rate stability to the Project Participants and their customers and will assist the Project Participants to meet their absolute requirement to have sufficient capacity for their respective loads while simultaneously providing a means to reduce carbon emissions and provide system reliability.

That the issuance, from time to time, of the Refunding Bonds in an amount not to exceed \$85,000,000 to refinance the Initial Issuance is reasonably necessary for its purpose and in the public interest because it provides MMWEC with the flexibility to refinance and refund the Initial Issuance at times when the interest rate environment or other factors

make it economic and advantageous and in the public interest for MMWEC to issue the Refunding Bonds and provides MMWEC with the flexibility to do so without having to return to the Department for such authority at a later time because MMWEC could miss an opportunity to refinance the Initial Issuance on advantageous terms.

ORDER: That the Department therefore approves and authorizes the issuance by MMWEC revenue bonds, note or other forms of indebtedness in an amount not to exceed the total aggregate amount of \$170,000,000, comprised of:

(A) \$85,000,000 as the Initial Issuance of long-term revenue bonds, notes or other evidences of indebtedness, the proceeds of which would be used to construct a capacity resource that will provide capacity and rate stability to MMWEC members (and their customers) who are participating in the capacity resource; and

(B) \$85,000,000 of Refunding Bonds consisting of revenue bonds, notes or other evidences of indebtedness to be issued at the appropriate time(s) and in the appropriate amount(s) to refinance all or a portion of the Initial Issuance; and

FURTHER ORDER: That it is in the public interest for MMWEC to exercise its judgment to issue and structure the Refunding Bonds (and notes, bonds, or other evidences of indebtedness) to be issued pursuant to this order of the Department in any manner and at any time MMWEC determines to be appropriate.

Respectfully submitted,

**MASSACHUSETTS MUNICIPAL
WHOLESALE ELECTRIC COMPANY,**

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