### MONTAGUE SELECTBOARD MEETING VIA ZOOM Monday, May 23, 2022 AGENDA

### Join Zoom Meeting: https://us02web.zoom.us/j/85690466046

Meeting ID: 856 9046 6046 Password: 906764 Dial into meeting: +1 646 558 8656

Topics may start earlier than specified, unless there is a hearing scheduled
<u>Meeting Being Taped</u>
<u>Votes May Be Taken</u>

- **1. 6:30 PM** Selectboard Chair opens the meeting, including announcing that the meeting is being recorded and roll call taken
- 2. 6:30 Approve minutes of May 16, 2022
- 3. 6:31 Public Comment Period: Individuals will be limited to two (2) minutes each and the Selectboard will strictly adhere to time allotted for public comment
- 4. 6:32 Reorganization of the Board
  - Election of Chair, Vice Chair and Clerk
  - Approve Summer Meeting Schedule
- 5. 6:40 COVID Updates
  - Review of COVID case counts and trends
- 6. 6:45 Julia Moore
  - Entertainment Permit: Makers Market at 27 Center Street, June 11, 2022 from 10:00 AM to 7:00 PM
- 7. 6:55 Unity Park Festival and Makers Market, June 11<sup>th</sup>, 148 Second Street, Turners Falls
  - Entertainment Application: 2:00 PM to 10:00 PM
  - One day Beer & Wine license: Pioneer Valley Brewery, 6:30 PM to 10:30 PM
- 8. 7:05 Steve Ellis, Town Administrator
  - Introduce Tyler Finnegan, Republic Services
  - Execute Trash and Recycling Contract
- 9. 7:15 Ariel Elan, Montague Energy Committee
  - DPU "Future of Gas" Docket 20-80
- 10. 7:30 Town Administrator's Business
  - Execute Delegation Agreement for a Sole Assessment Center between Montague Police Dept. and the Mass. Human Resources Division, Requisition #8589
  - Congressman McGovern files \$675,000 Federal Earmark Request for Avenue A
     Streetscape Improvements
  - Cannabis Host Community Agreement Legislation Update
  - First Light response to Actuator Hydraulic Leak
  - Topics not anticipated in the 48 hour posting
- **Next Meeting:** Selectboard, Monday, June 6, 2022 at 6:30 at 1 Avenue A, Turners Falls and via ZOOM





Town of Montague 1 Avenue A Turners Falls, MA 01376

(413) 863-3200 xt. 108 FAX: (413) 863-3231

## **2022 Summer Meeting Schedule**

Monday, May 23 (Zoom)

Monday, June 6 (In Person and Zoom)

Monday June 13 (Zoom)

Monday, June 27 (Zoom)

Monday, July 11 (In Person and Zoom)

Monday, July 18\*

Monday, August 1 (Meeting if needed)

Monday, August 8 (In Person and Zoom)

Monday August 22\*

Monday, August 29\*

Monday, September 12 - Regular Weekly Meetings Resume

\*Remote participation currently allowed until July 15, 2022

The Town of Montague is an equal opportunity provider and employer

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A-water hook up

Parking Plan - There will be on site parking for vendors and people who are differently abled (handicap) On smeet parking for attendees

	PURSU	JANT TO CHAPI CHAP	TER 140, SECTION 183-4 TER 140, SECTION 181	A (SEVEN DAYS)	
Date of Applica	tion: <u>5/1</u>	1/22	Date Approved:		Fee:
To the Local Lid The undersigned during the follow	censing Author I respectfully a wing hours:	( rity: applies for an Enter	rtainment License for daily	v operation, calenda	aryear20_22_
Sunday	from:	to:	Thursday	from:	to:
Monday	from:	to:	Friday	/ from:	to:
Tuesday	from:	to:	Saturday 6/11	22 from: 20	to: 10,0
Wednesday	from:	to:	Legal Holiday	from:	to:
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### **TOWN OF MONTAGUE** Special and One Day License – Application Form (M.G.L. Ch. 138 S. 14)

CHE	CK ONE
$\rightarrow$	Application by a manager for one day special license for the sale of BEER & WINE to be drunk on the premises.
	Application by the manager of a nonprofit organization for one day special license for the sale of ALL ALCOHOLIC BEVERAGES OR BEER & WINE to be drunk on the premises.
DA	TE OF EVENT BEING APPLIED FOR: JUNE 11, 2022
1.	Full name, address and phone number(s) of the organization making this application:
	Bioneer Valley Brewery 151 5rd St. Turners Fills 413-433-5307
2.	Full name, address and phone number(s) of manager who shall be responsible for the license:
	SAME AS AROVE
3.	Is the applicant requesting the license TIPS Certified? If Yes, please attach appropriate documentation. YES NO AAAAAAAAAAAAAAAAAAAAAAAA
4.	Nature of Event Unity Park Makers Number of Attendees Uhknown
5.	Is the applicant a non-profit organization duly registered with the Secretary of State? If Yes, please attach appropriate documentation. YES NO
6.	Location where event shall be held: <u>148 Second St</u> , Turners Falls
7.	Has the approval of the property owner been obtained? YES NO
8.	Exact times of the license: FROM
9.	Has the applicant been issued similar licenses in Montague in the past 12 calendar months? YES NO If so, when?
10.	Does the applicant have an application for license to sell alcoholic beverages pending before the licensing authority of the Town of Montague? YES NO
11.	Please attach a plan of the parking lot, showing the number of parking spaces available and adequate space for emergency access.
12.	Proof of Liquor Liability Insurance provided? Date
The app to Speci regulation	licant hereby states that the applicant has received a copy of the Licensing Authority's regulations pertaining ial and One Day Liquor Licenses and is aware of and shall comply with all applicable statues, by-laws and
	5/19/22
Office	Authorized Representative and Title / Date
# Dave	Permit Issued For:
Police (	Chief Signature: 1- DeT c.: 1 630-1030 Pm
Select E	Board Chair Signature:



### FOURTH AMENDMENT TO THE AGREEMENT

This Fourth Amendment (the "Fourth Amendment") to the Agreement is entered into as of the \_\_\_\_\_ day of May 2022, by and between Allied Waste Services of Massachusetts, LLC dba Republic Services of Springfield ("Contractor") and Town of Montague ("Town") (collectively referred to herein as the "Parties" and individually as a "Party").

**WHEREAS** the Parties entered into the Agreement for Services (hereinafter "Agreement") dated May 19, 2009, as previously amended by First, Second and Third Amendments to provide certain waste removal and recycling collection and disposal services in accordance with the Agreement;

AND WHEREAS, the Parties desire to amend certain terms of the Agreement as set forth more fully herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. Except as specifically provided in this Fourth Amendment, each and every provision of the Agreement, as amended through the date hereof, remains, and is, in all respects, in full force and effect.
- 2. <u>**TERM:**</u> The term of the Agreement is hereby extended from its current expiration date, for an additional two (2) years term until June 30, 2024. Parties may mutually agree to extend the Agreement for an additional two (2) year period commencing July 1, 2024. The Extension period rates will be mutually agreed to subject to adjustment in accordance with the Agreement's rate escalation provisions and additionally for any change in the Prevailing Wage Rate for the Extension period.
- 3. **RATES:** Effective July 1, 2022, the current Agreement Collections service rate will increase to \$340,798.79 per year based on continuing to utilize the end sites of McNamara TS for refuse and Springfield MRF for dual stream recycling and the Disposal Fee to \$92.00 per ton for the 2022-2023 Agreement year. The Town will continue to have ownership of all recycling processing costs. Subsequent annual rate adjustments will be made pursuant to the Agreement's rate escalation provisions. Contractor may increase the rates for services as a result of increases in costs incurred by Contractor due to changes in local, state, or federal statutes, rules, ordinances regulations, or other laws. Any of the foregoing cost adjustments shall be retroactive to the effective date of such increase or change in cost.
- 4. <u>ANNUAL ESCALATORS</u>: The Collections and Disposal rates are to be adjusted annually by the May release of the 12 months trailing average CPI Index for Water, Sewer & Trash.
- 5. **ROUTE REBALANCE:** Republic to implement a reroute of the Town from four days per week service to five days per week; subject to the approval of Town leadership of the implementation and communication plans. Republic is responsible for the communication of all route changes to the residents.
- 6. **<u>REPUBLIC APP</u>**: To improve communications to residents of service schedule changes Republic to implement in the Town a pilot of the Republic App when available for summary billed municipal collection contracts.

7. **COMMUNITY PARTNERSHIP PROGRAM:** The current annual Community Partnership Program commitment to the Town will continue at \$5,500 per year; this includes a \$3,500 funding commitment to RiverCulture. At the end of each fiscal year, Republic to provide an accounting of funds usage with a check payable to the Town of any remaining funds.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date first set forth above.

Town of Montague

Allied Waste Services of Massachusetts, LLC dba Republic Services of Springfield

By:	By:
Its:	Its: Market Vice President
Print Name:	Print Name: Kurt Lavery

### COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Public Utilities on its own Motion into the Role of Gas Local Distribution Companies as the Commonwealth Achieves its Target 2050 Climate Goals

**D.P.U. 20-80** 

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### THE OFFICE OF THE ATTORNEY GENERAL'S INITIAL STAKEHOLDER COMMENTS ON CONSULTANTS' TECHNICAL ANALYSIS OF DECARBONIZATION PATHWAYS REPORT

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May 6, 2022

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### COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Public Utilities on its own Motion into the Role of Gas Local Distribution Companies as the Commonwealth Achieves its Target 2050 Climate Goals

**D.P.U. 20-80** 

### THE OFFICE OF THE ATTORNEY GENERAL'S INITIAL STAKEHOLDER COMMENTS ON CONSULTANTS' TECHNICAL ANALYSIS OF DECARBONIZATION PATHWAYS REPORT

### I. <u>EXECUTIVE SUMMARY</u>

Massachusetts stands at the crossroads of a clean energy transition that will transform the utilization of energy in our homes and the workplace. Aggressive, nation-leading emission reduction mandates touching all aspects of our energy economy have been enacted by the General Court. Implementation plans are underway among several state agencies charged with executing on the statutory mandates. The Secretary for Energy and Environmental Affairs (EEA) has observed that nearly a third of Massachusetts' GHG emissions stem from on-site fossil fuel consumption to satisfy building thermal needs.<sup>1</sup> Reducing buildings emissions by nearly one-half by 2030 is required to meet overall emission reduction mandates.<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> See e.g., EEA, Interim 2030 Clean Energy and Climate Plan, ("Interim 2030 CECP") (Released December 30, 2020), at 27, available at <u>https://www.mass.gov/doc/interim-clean-energy-and-climate-plan-for-2030-december-30-2020/download</u>

<sup>&</sup>lt;sup>2</sup> See EEA, CECP Public Hearing Presentation (April 15, 2022), at 10, showing required residential heating emission reductions by 2030 of 44 percent and Commercial & Industrial heating emission reductions of 47 percent, *available at* <u>https://www.mass.gov/doc/2025-2030-cecp-public-hearings-presentationenglish/download</u>

Critical to achieving required building emission reductions is the strategy to transition building thermal requirements from on-site combustion of fossil fuels to the adoption/installation of efficient electric heat technologies in very many buildings, and maybe nearly all. EEA has determined that at least 60 percent and as much as 95 percent of Massachusetts buildings must transition to efficient electric heating by 2050, under any plausible decarbonization scenario, for the Commonwealth to deliver on the statutorily mandated emission reductions. Interim 2030 CECP, at 13, 27. A recent EEA presentation on an updated 2030 CECP finds that for emission reductions to stay on target, nearly a third of all homes in the Commonwealth must be moved to efficient heat pumps and tighter building envelope improvements by 2030.<sup>3</sup>

Against this factual and policy backdrop, the gas distribution companies were asked to consider and present their enablement plans to aid the Commonwealth and its citizens in achieving "net zero" emissions in a just and equitable fashion. A year later, their collective response has been underwhelming and somewhat dissembling. Rather than lead an energy transformation, the gas companies largely stick to their century-old business plan: deriving a profit by delivering gas via underground pipes. The centerpiece of their plans and the gas industry's public relations juggernaut is to double-down on pipeline-delivered gas in a scenario they term "hybrid electrification." Under hybrid electrification, residents install air source heat pumps in their homes and businesses but they simultaneously install gas fired, backup heating systems for use in the coldest winter weather. Compliance with all emission reduction mandates under hybrid electrification can be attained *if and only if* sufficient quantities of carbon-neutral or carbon-free "renewable natural gas" can be secured by the local distribution companies

<sup>&</sup>lt;sup>3</sup> EEA, *CECP Public Hearing Presentation* (April 15, 2022), at 12, *available at* https://www.mass.gov/doc/2025-2030-cecp-public-hearings-presentationenglish/download

("LDCs") to replace present natural gas throughput over time. And the upshot of the hybrid electrification plan for the gas companies is that they keep virtually all their building heat customers and fully retain and upgrade all of their existing gas delivery infrastructure and future improvements on which they are assured a Department-authorized return on investment.<sup>4</sup>

How the Department elects to think about the challenge ahead has major consequences for the Commonwealth. Prioritizing what can be done to ensure the continued profitability of gas utilities implies different action than how best to prepare Massachusetts residents for an equitable carbon-free energy future. As discussed below, the purported allure of the hybrid electrification scenario as envisioned by gas companies as good for the environment, good for customers, and good for gas utilities does not stand up to close scrutiny. There are too many known and unknown weaknesses in the gas companies' planned hybrid electrification strategy – in terms of customer cost and prospects of reducing emissions – to merit further consideration as a serious building emission reduction strategy. The Department should reject the hybrid electrification scenario proposed by the gas companies<sup>5</sup> from further policy consideration.

### II. <u>BACKGROUND</u>

On March 18, 2022, the Massachusetts investor-owned gas local distribution companies ("LDCs")<sup>6</sup> filed with the Department of Public Utilities ("Department") in this proceeding,

<sup>&</sup>lt;sup>4</sup> Department-allowed returns on equity (ROE) for investment by gas companies typically fall in the range of 9.0 to 10.0 percent.

<sup>&</sup>lt;sup>5</sup> As more fully discussed in Section IV below, much of the transitional benefits of hybrid electrification can be attained by apportioning the Commonwealth's total building heat load – not the demand of each individual building customer – between electric and gas delivery systems for a transitional period.

<sup>&</sup>lt;sup>6</sup> The LDCs in this proceeding include The Berkshire Gas Company, NSTAR Gas Company and Eversource Gas Company of Massachusetts, each d/b/a Eversource Energy, Liberty Utilities (New England Natural Gas Corp.) d/b/a Liberty, Boston Gas Company and the former Colonial Gas Company d/b/a National Grid and Fitchburg Gas and Electric Light Company d/b/a Unitil.

among other things, their *Independent Consultant Technical Analysis of Decarbonization Pathways* ("Technical Report"). The Technical Report undertakes a comprehensive economywide analysis of eight sample pathways Massachusetts might undertake to successfully achieve its goal of "net zero" greenhouse gas ("GHG") emissions by 2050, or an 85 percent reduction in GHG emissions from 1990 baseline levels. The approach used in the Technical Report by the Consultants (Energy and Environmental Economics, Inc ("E3") and ScottMadden Inc.) is similar to the analysis the Commonwealth employed in the 2050 Roadmap analysis. The E3 analysis also was designed to ensure each pathway achieves the interim statutory emission reduction mandates required by 2030 (50 percent emission reduction from 1990 levels) and 2040 (75 percent reduction from 1990 levels).<sup>7</sup>

The Technical Report cautions, however —repeatedly and throughout— that the pathways *are not forecasts* of future decarbonization strategies or tactics. Compliance with all emission reduction mandates is assumed, not proven, within each scenario. Instead, each pathway represents a "what if" consideration of the factors, features and challenges of different plausible energy futures. Technical Report, at 11. Each pathway is first *assumed* to achieve all required GHG emission reductions and then E3 undertakes to catalog, compile, and model the myriad assumptions on customer adoption rates, costs, technical challenges and risks needed to bring about successful emission compliance within each pathway.

The eight studied pathways include three that are roughly analogous to pathways examined in the Massachusetts 2050 Roadmap: (1) a "high electrification" scenario; (2) a "low electrification" scenario; and (3) a 2030 interim CECP-compliant approach. To the foregoing

<sup>&</sup>lt;sup>7</sup> See Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy ("Climate Act"), St. 2021, c. 8, §§ 8, 10.

pathways E3 added five additional scenarios developed to pose and examine outcomes of specific interest to various stakeholders, including: (4) hybrid electrification; (5) targeted electrification; (6) networked geothermal heating; (7) efficient gas equipment; and (8) 100 percent gas system decommissioning.

Again, it bears repeating that the scenario analysis undertaken in the Technical Report does not predict the success of any particular future outcome, nor is the scenario analysis intended or capable of forecasting which pathway or portfolio of pathways might achieve effective results (in terms of emission reduction compliance at the overall least cost). Instead, the scenario analysis was cast by E3:

> [to] identif[y] decarbonization pathways that may be adopted and/or combined to transition to the Commonwealth's climate goal of net-zero [GHG] emissions. The pathways share a set of commonalities that are likely part of any decarbonization strategy, while maintaining optionality for longer-term technological advancements.

Consultant Report on *Considerations and Alternatives for Regulatory Designs and Support Transition Plans* ("Regulatory Design Report") (March 18, 2022), at 8. These commonalities among all studied pathways include energy efficiency, building electrification and the introduction/blending of biomethane as a purportedly "renewable natural gas." *Id.* By comparing and contrasting the relative costs, features, feasibility, and risks of the studied pathways, the Technical Report advances general conclusions as to the relative merits/drawbacks of each studied pathway.

All eight pathways are similar in that they each entail the transition of varying levels of building heating requirements to efficient electric technologies, coupled with the introduction of "renewable natural gas" into the pipeline system to decarbonize (in effect) the residual energy uses of natural gas. However, the outcomes of certain pathways (*e.g.*, the high electrification scenario or the 100 percent gas decommissioning scenario) rely to a greater extent on efficient

electric heating alternatives while other pathways (*e.g.*, efficient gas equipment and hybrid electrification) rely on the future availability and affordability of renewable natural gas to a much larger extent.

By Hearing Officer Memorandum dated March 24, 2022, the Department elected to proceed with an evaluation of the Technical Report, but not through a formal, adjudicatory proceeding entailing full discovery, cross-examination of witnesses and presentation of opposing studies/analysis/testimony. Instead, the Department has invited stakeholder written comment by May 6, 2022 limited to:

> (1) the developed pathways set forth in the Report and the assumptions and modeling underlying the Report; and (2) the regulatory framework necessary to support the equitable and safe transition to net-zero greenhouse gas emissions by 2050.

Hearing Officer Memorandum, at 3. The Department subsequently advised: "The Department encourages comments that raise issues with the consultants' reports and the LDCs' individual proposals and comments that make alternative proposals, particularly alternative regulatory framework proposals." April 15, 2022 Hearing Officer Memorandum, at 2.

### III. <u>THE TECHNICAL REPORT'S PROMOTION OF A HYBRID</u> <u>ELECTRIFICATION PATHWAY RESTS ON UNSOUND AND UNPROVEN</u> <u>ASSUMPTIONS</u>

A conclusion drawn by E3 in the Technical Report, which the LDCs then take as the keystone of their proposed recommendations and so-called "enablement plans," is that the pathway that the Consultants term "hybrid electrification" shows lower levels of challenge across a range of evaluation criteria. As characterized in the report, hybrid electrification entails broad customer-driven installation of air source heat pump ("ASHP") heating technologies, but with each customer also installing/retaining a gas-fired backup heating system which, over time, is fully transitioned to carbon-neutral fuels. The ASHP is used for heating and cooling whenever

outside ambient air temperatures remain moderate, but building heat during the coldest winter weather (where ASHP efficiency and heating performance decline) would switch to the backup gas system which is assumed to deliver increasing shares of carbon-neutral gas.<sup>8</sup> Thus, while as many as 90 percent of buildings under hybrid electrification will adopt ASHP heating by 2050, all hybrid electrification participants remain customers of the LDCs, relying on renewable gas in winter peak periods. In this way, hybrid electrification ostensibly offers the most promising focal point of all the LDCs' near-term decarbonization strategies, because it offers the possibility of lowering overall emissions *but* retaining virtually all existing building heat customers, as well as full retention (albeit utilized only for limited times of the year – winter peaks) of each LDC's gas infrastructure.

From a general review of the Technical Report in the time available, the AGO and its Consultants, The Brattle Group, discern several significant weaknesses in the hybrid electrification approach touted by the gas industry participants.

It is suggested at several junctures in the Technical Report that the hybrid electrification scenario entails lower overall costs than alternative pathways. "A hybrid [electrification] strategy reduces the cumulative cost of achieving net zero GHGs through 2050 by between \$23-43 billion relative to scenarios that primarily rely on all-electric strategies ...." Technical Report, at 14. The putative cost savings are perceived to be generally attributable to lower future electric system augmentation costs (that under hybrid electrification will not need to be scaled up to serve the winter extreme cold spells)<sup>9</sup> as well as up-front savings in ASHPs acquisition costs, due to (1) initial purchase of smaller and/or less efficient ASHPs and (2) a savings in extensive

<sup>&</sup>lt;sup>8</sup> See e.g., Technical Report, at 31.

<sup>&</sup>lt;sup>9</sup> See Technical Report, at 60 and Figure 20.

building shell enhancements and weatherization improvements that would otherwise be needed to accommodate year-round occupant comfort and safety in an ASHP-only heating environment.<sup>10</sup>

Compliance with all statutory emission reduction mandates is achieved with the hybrid electrification approach *only* by burning large volumes of renewable natural gas that is assumed to be "carbon-neutral." Thus, E3's conclusions favoring a hybrid electrification pathway rest *on assumptions* of renewable natural gas availability and cost that have not yet been well studied or supported, and in some respects are simply wrong. As more fully discussed below, the Technical Report makes several forced errors and unsupported suppositions as to the availability, cost and climate efficacy of burning renewable natural gas in the hybrid electrification scenario as a decarbonization strategy for the Commonwealth.

### A. There is no credible support that renewable natural gas can be made available in Massachusetts at the volumes needed to support 2050 residual gas use under hybrid electrification.

A key tenet of all decarbonization pathways is that whatever residual demand remains for gas for heating applications, after evaluating contributions from efficient electric heat technologies, will be met through delivery and consumption of "renewable natural gas" that is assumed to have net-zero emissions. For purposes of the Technical Report, E3 defines renewable natural gas ("RNG") as an umbrella term to include both (i) biomethane produced through anaerobic digesters or gasification, as well as (ii) renewable (a/k/a "green") hydrogen and (iii) synthetic natural gas ("SNG") produced with renewable hydrogen combined with a climate-neutral source of carbon (*e.g.*, either a by-product of biogas development or from direct air capture). Technical Report, at 9.

<sup>&</sup>lt;sup>10</sup> See Technical Report, at 55.

The annual volumes of RNG needed in Massachusetts by 2050 under a hybrid electrification pathway were determined by E3 as roughly 70 trillion Btu (TBtu). Technical Report, at 50, Figure 15. But according to a gas industry report (Am. Gas Foundation, Dec. 2019 Report), the total available RNG output – nationwide – as of 2020 was only approximately 50 TBtu.<sup>11</sup> An additional complicating factor regarding future RNG availability in Massachusetts acknowledged in the Technical Report is that relatively limited resources for developing RNG presently exist in New England.<sup>12</sup>

The Technical Report overcomes the present insurmountable supply obstacles by extrapolating exponential growth in RNG production in the coming years. The Technical Report assumes future available RNG stocks will appear and be available in Massachusetts from among all states east of the Mississippi River. Appendix 1 to Technical Report ((Modeling Framework and Assumptions), at 16. The Report reasons that RNG stocks anywhere east of the Mississippi can be purchased and delivered to Massachusetts using the existing network of interstate gas pipelines (just as the pipelines are used today by the LDCs to obtain natural gas supplies). *Id*.

The Technical Report reasons that the availability in Massachusetts of 70 TBtu of RNG needed for the hybrid electrification scenario is feasible if RNG production nationwide grows precipitously *and* Massachusetts secures its "fair share" of available RNG supplies. Appendix 1 to Technical Report, at 16-17. E3 derives that "fair share" to be 3.7 percent of all RNG produced

<sup>&</sup>lt;sup>11</sup> See American Gas Foundation, Renewable Sources of Natural Gas: Supply and Emission Reductions Assessment, at 10 n.5 available at <u>https://gasfoundation.org/2019/12/18/renewable-sources-of-natural-gas/</u>

<sup>&</sup>lt;sup>12</sup> See Appendix 1 to Technical Report, at 16 ("It is important to note that biomass resource availability in New England is relatively low compared to other regions in the United States. [] New England has an estimated 0.63 dry tons of feedstocks available per person per year, whereas the average availability of feedstocks for the U.S. as a whole is 2.47 dry tons per person per year.") Thus, New England has only one-quarter as much biomass feedstock, per person, as the national average.

annually in all states east of the Mississippi River. *Id.* This assumption that 70 TBtu of RNG represents 3.7 percent of RNG available in the eastern half of the country implies that total RNG supplies in all states east of the Mississippi will be nearly 2,000 TBtu [2,000 x 0.037 = 74 TBtu] by 2050. However, RNG production in 2020, *from all states* in the U.S. was only 50 TBtu. For 2,000 TBtu of RNG to appear by 2050 in the eastern United States suggests nationwide RNG annual production climbs from 50 TBtu in 2020 to 4,000-6,000 TBtu by 2050. As a point of reference, total annual natural gas delivery nationwide averaged 4,846 TBtu between 2009 and 2018 for the residential sector alone. American Gas Foundation 2019 Renewables Study, *supra* at 2 n. 11. Growth in RNG production by 2050 can be expected, but the kind of exponential growth prospect assumed by the Technical Report is without precedent.

Further troubling, beyond the assumption of a phenomenal RNG supply growth rate by 2050, is the Technical Report's derivation of the Massachusetts "fair share" of available RNG supply at 3.7 percent. The Report undertakes no technical, commercial, or probabilistic analysis of RNG amounts that can be acquired by the LDCs but *assumes* the Commonwealth can lay claim to 3.7 percent of the RNG supply merely because Massachusetts represents roughly 3.7 percent of the population east of the Mississippi (and despite that New England has a much smaller share of biomass resources). Appendix 1 to Technical Report, at 16-17. Perhaps if a product or commodity's supply and availability were truly unlimited, it might be reasonable to assume that supply in a competitive market is distributed roughly by relative population shares. But there is likely to be fierce competition among all states – indeed, among nations – for available RNG production by 2050, and even greater competitive pressure to obtain RNG from "hard-to-decarbonize," "hard-to-electrify" energy applications. (By contrast, the Commonwealth's use of gas for building heating is a reasonably "easy-to-electrify" application

that can be met more efficiently and likely at lower costs through electrification, rather than needing to rely on RNG). The Technical Report's *assumption* that Massachusetts will successfully acquire all RNG stocks needed in the hybrid electrification scenario to meet its 2050 emission reduction mandate (and all interim reduction mandates) in proportion to its share of the relative population is unintuitive and unsupported.

Further eroding E3's RNG availability assumptions in the hybrid electrification scenario is how RNG would be transported to the LDCs for delivery in Massachusetts. The Technical Report assumes that natural gas pipelines east of the Mississippi used by the LDCs to transport natural gas today to New England will be increasingly re-purposed for transport of RNG. But these pipes are common; there is no practical way to segregate and transport separately within the pipes the RNG molecules from natural gas molecules. Thus, under E3's transport assumptions all off-takers of the interstate gas pipeline system, and all state and federal administrative agencies that regulate such facilities and users, must agree to the regulatory and technical risks to comingle RNG and natural gas within the pipes. While a future can perhaps be imagined where modest amounts of biomethane are blended and commingled with natural gas without material operational complications or administrative objection, recall that "RNG" for purposes of the Technical Report also includes hydrogen and hydrogen-derived SNG. Not all shippers and end-users, as well as the regulatory agencies overseeing such markets, might willingly and unanimously assent to commingling natural gas with hydrogen. Further complicating the permitting and approval process for transporting hydrogen is that the Federal Energy Regulatory Commission ("FERC"), the federal agency with preemptive siting and

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regulatory oversight of interstate natural gas pipelines, does not and cannot now regulate interstate transport of hydrogen.<sup>13</sup>

For all the foregoing reasons, the Department should hold grave doubts that (1) the RNG stocks needed to ensure the environmental success of the hybrid electrification pathway will grow sufficiently in total supply east of the Mississippi and can actually be acquired by the LDCs in sufficient quantities as needed; and (2) that all users and regulators of interstate gas pipelines with eight decades of experience under the Natural Gas Act and comparable state laws will pivot, in unison, to timely embrace under Massachusetts emission reduction timetable the complex blending of gas, biomethane, hydrogen and SNG. The availability of RNG in sufficient quantities in Massachusetts for the hybrid electrification pathway to successfully achieve all GHG emission reduction mandates is thus an unsound and unsupported assumption.

## B. E3's estimation of RNG supply costs runs counter to its own modeling methodology and competitive market outcomes.

Even if the Department accepts all of E3's assumptions on future RNG availability (which as discussed above, it should not), the Technical Report deliberately and significantly understates in its hybrid electrification analysis the costs of obtaining RNG. Curiously, the Technical Report does so by first correctly explaining the economic and pricing dictates of a

<sup>&</sup>lt;sup>13</sup> The Federal Energy Regulatory Commission's jurisdiction is limited under the Natural Gas Act of 1938 to the interstate transportation and sale for resale of natural gas. 15 U.S.C. §717. Thus, legal commentators have noted FERC's jurisdiction over pipeline siting and regulation does not extend to hydrogen. Safety and operations concerns regarding shipment of hydrogen by pipeline fall under the federal Pipeline and Hazardous Material Safety Administration (PHMSA) and limited economic interest of pipeline delivery of hydrogen are regulated by the federal Surface Transportation Board. *See generally* <u>https://www.bakerbotts.com/thoughtleadership/publications/2021/october/us-lawmakers-contemplate-regulatory-framework-forhydrogen-transportation</u>

competitive commodity marketplace, but then discarding, without explanation, its own economically correct commodity pricing constructs when it comes to RNG.

To estimate the cost of the future RNG supplies necessary for the climate success of hybrid electrification, E3 first constructs its own supply cost curves. *See, e.g.*, Appendix 1 to Technical Report, at 20, Figures 9 and 10. For convenience, these Figures are reproduced below.



Figure 10. Renewable gas supply curves in 2050 for optimistic and conservative High Electrification scenario. Note the different horizontal axis compared to Figure 9.



To capture the future uncertainty in RNG pricing, E3 develops, to its credit, both "optimistic" and "pessimistic" views on renewable fuel supply curves. The x-axis (horizontal) on each graph represents quantities of RNG available and the y-axis (vertical) corresponds to the unit price at each level of demand. The upward "steps" in prices as quantities increase along the x-axis reflects the much higher production cost for incremental quantities of biomethane, then hydrogen, and finally SNG as demand overall for RNG increases. (The AGO has not independently confirmed the reasonableness of the forecast quantities and prices of RNG in the foregoing cost curves, but for the sake of argument here assumes them to be reasonable.)

The Technical Report proceeds to explain how to properly employ such cost curves in a competitive commodity market:

The cost of renewable gas in each pathway is based on the *market clearing price* of the above supply curves each year. That is, if 60 TBtu of biomethane would be needed from the Efficient Gas pathway (Figure 9), hydrogen *sets the market clearing price* of ~\$17/MMBtu *for all 60 TBtu* in the optimistic case.

Appendix 1 to Technical Report, at 20 (emphasis supplied). This competitive commodity pricing determination of "market clearing price" is grounded in basic economics and is a mainstay of economic modeling. As E3 acknowledges above, when overall market demand rises in the hybrid electrification scenario to 70 TBtu, no competitive supplier of biomethane will agree to sell at anything less than the market clearing price. Thus, all supplies are "priced at the margin" because that is how competitive commodity markets work in practice. In the optimistic case of Figure 9, above, no supplier will agree to sell 10 MMBtu at something like \$8 if the market is currently obtaining \$17 per MMBtu at the margin. Accordingly, as the authors of the Technical Report readily acknowledge, the entire supply stack must be priced at the incremental price of the last (or marginal) unit of supply.

Inexplicably, and contrary to sound economic theory and its own pricing convention, the Technical Report disregards marginal (*i.e.*, market clearing) pricing when SNG is needed, in pathways with high gas demand. Whenever total RNG demand outstrips biomethane supplies in

E3's analysis, reaching into the SNG portion of the supply curve, the Technical Report abandons the concept of marginal pricing and a market clearing price. Instead, E3s pricing model is constructed to price the relatively small marginal quantities of SNG at the cost of SNG, but then proceeds to price the remaining RNG quantities at the lower cost of biomethane, below the margin of the supply curve.

An exception is made for SNG, which is modeled as a separate market, with utilities procuring resources through bilateral market contracts. Therefore, SNG supply is assumed to be blended in at the weighted average price of biomethane and SNG.

Technical Report, Appendix 1, at 20.

What results from the Technical Report's special SNG pricing contrivance is a kluge of out-of-market RNG prices that imagines that most RNG is obtained at the (relatively low) cost of biomethane, and only the last, small incremental RNG requirement is priced at the much higher cost of SNG. In short, the Consultants' approach disregards competitive economics and the notion of a market clearing price. The resulting "weighted average" of lower contrived prices for biomethane but higher prices *only* for limited SNG quantities is counterfactual and economically unsupported, and significantly understates the cost of the gas-reliant pathways.

This pricing contrivance for SNG is no small error. As can be readily seen from Figures 9 and 10, above, the marginal, market-clearing prices of SNG (\$28-\$40/MMBtu for "optimistic" and \$40-\$60/MMBtu for "conservative" case) are multiples higher than the price for other RNG stocks. In the "optimistic" case, the Study assumes 63 TBtu (of the total 2050 requirement of 70 TBtu) can be attained from biomethane and hydrogen (Technical Report, at 52, Figure 16) leaving only 7 TBtu of higher cost SNG to be acquired at bilateral contract prices. But under the "conservative" case, only 16 TBtu of biomethane is available and the balance of 54 TBtu must be acquired from higher cost SNG stocks.

The resulting "Commodity Cost of Gas" shown in Figure 11 of Appendix 1 to the Technical Report could, if SNG were priced correctly, be roughly twice the cost E3 uses in its analysis. Market pricing of RNG would likely yield overall commodity gas costs far higher than the \$22-\$28 range shown for the Hybrid scenario in Figure 11. How much higher is not readily determined from the available information. The Department should insist that E3 correct its faulty SNG pricing contrivance and re-calculate the costs for all scenarios. The results would show that the overall savings the hybrid electrification scenario purportedly enjoys over high electrification scenarios would likely disappear (assuming, without conceding the point from Section III.A, that sufficient stocks of RNG could be found *at any price*).

What is clear is that the conclusions drawn by the LDCs on the putative merits of hybrid electrification are faulty because the Technical Report's pricing of RNG supplies, necessary for a hybrid electrification scenario to meet the emission reduction mandates, is unsound and unsupported.

# C. The success of the hybrid electrification pathway at attaining all required GHG emission reductions hangs on a questionable and highly contentious assumption that RNG is truly "carbon-neutral."

Laying aside the problems discussed above regarding RNG availability and price, there is still a more foundational weakness in the hybrid electrification scenario —indeed on any pathway premised on high reliance on so-called renewable, "carbon-neutral" fuel substitutes. In fact, most RNG (both biomethane and SNG) is NOT carbon-free. When such "carbon-neutral" fuels are burned they release essentially the same CO<sub>2</sub> emissions occasioned when burning natural gas. Moreover, when biomethane or synthetic methane escapes from leak-prone gas infrastructure it has the same climate impacts as leaked methane from natural gas would – and these can be significant.<sup>14</sup>

What enables proponents of RNG to claim a favorable environmental impact from purportedly "carbon-neutral" fuels is only an assumption that is incorporated within the present regime of accounting for GHG emissions. In general, if methane from an agricultural practice that *would otherwise reach the atmosphere* can be captured and re-purposed as biomethane RNG, its resulting emissions in effect are "credited" for the emissions saved in the agricultural sector.

Longer-term, however, there is wide concern among experts on the practicality and efficacy of trading emissions on the GHG emission ledger sheet. What is needed to address the world's climate change dangers is a radical and permanent reduction in emissions from *all* sources, both agricultural and oil/gas in this example. Some level of emission exchanges will be necessary particularly to reduce emissions in the hard-to-electrify, hard-to-decarbonize sectors of the world energy economy. But to consume emission flexibility on "renewable" building heating fuels in New England (that can more directly be decarbonized through efficient electric heating technologies) will not suffice as a reasonable, sustainable long-term emission reduction strategy.

There are other environmental concerns with RNG. Its emissions perhaps appear today as "carbon-neutral" under present GHG accounting, as measured as a direct emission. Again, there is growing consensus among experts to instead measure and consider full life-cycle

<sup>&</sup>lt;sup>14</sup> Importantly, leakage from distribution pipelines does not decline with reductions in throughput. Therefore, in scenarios that assume a robust continued use of the full gas distribution system, even for greatly reduced volumes, the emissions from methane leakage remain.

emission profiles that capture emissions gains and losses throughout the entire production process.

The Technical Report acknowledges both of these uncertainties and concedes (tacitly) that if the GHG emission accounting conventions change, the eligibility of RNG as a "carbon-neutral" fuel vanishes, in which case: "If th[e] [GHG inventory] framework changes, the GHG emission savings from biomethane will diverge from the values identified in this Study." Technical Report, at 18 n. 12. Thus, E3 cautions: "As discussed in Consultant Decarbonization Pathways Report, renewable fuels are *assumed* to have net zero GHG impact under the Massachusetts GHG accounting framework." Regulatory Designs Report, at 8 n. 7 (emphasis supplied). The Technical Report, at 14, adds: "pathways that rely more heavily on renewable fuels carry risks related to lifecycle emissions and GHG accounting methods." "Following the [present] conventions of the Massachusetts Greenhouse Gas Inventory, this study treats renewable fuels as carbon neutral. In practice, the lifecycle emissions of renewable fuels may vary ...." *Id.*, at n. 11.

Finally, there is this more robust acknowledgment in Appendix 1 to the Technical

Report, at 27-28:

As described above, an important component of the GHG emissions accounting framework is the treatment of renewable fuels. In this study, consistent with the Massachusetts GHG Inventory, the use of renewable fuels throughout the economy *is assumed to not result in any net emissions* []. Similarly, the gross emissions accounting framework does not account for lifecycle emissions of fuels []. ....

The Consultants realize that treating renewable fuels as carbon neutral is a simplification of the complex carbon flux associated with fuel production. For example, fossil fuel use in feedstock production or key feedstock conversion steps can increase the embodied carbon emissions of renewable fuels. ....

As a result, treating renewable fuels as having net-zero carbon emissions may overestimate their decarbonization potential, especially considering that emissions accounting frameworks in the Commonwealth may evolve. Such an overestimation increases the risk of not meeting the Commonwealth's decarbonization goals, especially under those economywide transitions that rely on high levels of renewable fuels, such as the Efficient Gas Equipment pathway.

*Id.* (emphasis supplied). To reiterate E3's professional disclaimer above —over-reliance on the carbon neutrality of RNG, long-term, "increases the risk of not meeting the Commonwealth's decarbonization goals, especially under those economy-wide transitions [such as the hybrid electrification pathway] that rely on high levels of renewable fuels ....."

Accordingly, for all the foregoing infirmities regarding RNG (i) availability, (ii) price and (iii) environmental efficacy, the Department should reject any reliance on the hybrid electrification pathway advocated by LDCs and steer away from all decarbonization transitions heavily reliant on the substitution of RNG in place of natural gas.

### IV. <u>CLAIMED BENEFICIAL IMPACTS OF HYBRID ELECTRIFICATION ON</u> <u>ELECTRIC SYSTEM INFRASTRUCTURE ADDITIONS CAN BE ATTAINED</u> <u>BY FOCUSING ON BUILDING ELECTRIFICATION IN THE NEAR TERM</u>

A major premise in the Technical Report's predisposition towards hybrid electrification is that retaining some gas use for winter peak heating needs will result in savings in future costs, largely by avoiding the need to augment the electric system to accommodate full building electrification and the resultant winter heating peak. But the Commonwealth need not and should not commit to individual building hybrid electrification to attain this tradeoff.

Even under aggressive, full and efficient building electrification (*i.e.*, where efficient cold climate ASHP and building shell improvements are undertaken as the whole heating solution for many buildings) the majority of gas heating customers in 2030, who in the near term have not yet migrated to efficient electric heat, will stay on gas during winter peaks. This full and efficient building electrification strategy provides the same level of flexibility in winter energy sources as if, under hybrid electrification, 90 percent of customers electrify but retain gas heating for winter

peaks. For example, assume for the next ten years Massachusetts aggressively promotes full electrification and that 40 percent of customers adopt efficient electric heat technologies in this period. With this initiative the electric system is not confronted with an extreme level of winter peak demand because 60 percent of customers remain (for now) on natural gas heating. There will be time between 2030 and 2040 to assess the impact on electric system costs of full building electrification.

Additionally, EEA has already determined that the number of buildings that need to convert to efficient electric heat by 2030, for Massachusetts to stay on target with its required emission reduction trajectory, is essentially the same under any alternative pathway.

[T]o achieve Net Zero in 2050 via either a lower-risk, lower-cost "high electrification" scenario or a higher-risk, higher-cost "decarbonized gas" scenario, the core required transformations in the building sector over the next 10 years are the same. The number of buildings using natural gas, fuel oil, and propane for space and water heating must begin to steadily and permanently decline.

2030 Interim CECP, at 27. Accordingly, for at least the coming decade Massachusetts can achieve the same flexibility in the diversity of winter heating sources under an aggressive electrification pathway as it could attain under the LDCs' hybrid electrification. Moreover, full electrification (for now) of a subset of buildings maintains flexibility later to pursue either (a slightly different version of) hybrid electrification, or a high electrification pathway.

The claimed system cost savings through hybrid electrification are illusory. When the hybrid electrification scenario fails to achieve the required emission reduction mandates (and for the reasons discussed in Section III, *infra*, it likely will fail) all investments in hybrid electrification will be sunk. All of the low-efficiency ASHPs installed under hybrid electrification will now need to be replaced with high-efficiency units. EEA estimates that nearly a million gas/oil/propane furnaces and boilers will reach end-of-life status in the next ten

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years. Interim 2030 CECP, at 28. It will be a colossal, wasted opportunity if they are replaced with low-efficiency ASHPs, which customers will not prematurely update with more efficient units. Moreover, all amounts spent maintaining the present gas infrastructure under hybrid electrification (for seasonal winter peaks) instead of looking for gas system cost reduction opportunities through targeted electrification and ASHP deployment also will be sunk when the Commonwealth must ultimately pivot towards full electrification. Accordingly, the likely sunk costs of hybrid electrification makes it a strategy that limits, not enlarges, the Commonwealth's subsequent policy options to modify implementation based on later-acquired facts.

The Department should reject consideration of the LDCs' hybrid electrification scenario in favor of measured, yet aggressive, adoption targets for efficient building electrification (with no provision for backup gas heating).

### V. <u>E3's TECHNICAL REPORT FAILED TO VIGOROUSLY PURSUE POTENTIAL</u> <u>GAS INFRASTRUCTURE COST SAVINGS</u>

The Technical Report (at 12, Figure 1) suggests a \$23-\$43 billion savings in cumulative energy system costs by 2050 from the hybrid electrification scenario compared to a full electrification pathway. However, as shown in Section III, *infra*, E3's cost analysis significantly understates RNG supply costs under hybrid electrification. It is likely that any cumulative cost savings advantage of hybrid electrification will disappear once RNG supply is properly priced.

A further conceptual weakness in the Technical Report's comparative cost analysis is that the analysis fails to undertake any rigorous consideration of future gas system cost savings (both capex and op-ex) enabled by electrification scenarios. While the Technical Report advises that gas system cost reduction measures were considered, there is little description how such savings were calculated. To the contrary, the Technical Report advises:

In scenarios with declining customers, throughput, and/or demand on the gas system, there may be opportunities to reduce gas system costs

relative to a static system. However, these opportunities are uncertain. There is little historical evidence for what level of cost reductions may be possible, as few gas utilities have faced declining throughput and no gas utilities have seen widespread customer departure.

Appendix 1 to the Technical Report, at 49. E3 cautioned "there are many open questions about how targeted electrification could be achieved"<sup>15</sup> and that the cost savings it purportedly identified "are not based on empirical data from Massachusetts LDCs." Appendix 1 to the Technical Report, at 49. Accordingly, the Technical Report puts off, for another day, any "detailed study by the LDCs [] required to establish LDC-specific ranges of potential cost avoidance opportunities." *Id.* 

What is clear is that E3 assumed in its analysis all existing capital assets are replaced routinely at their end of life. Appendix 1 to Technical Report, at 45. It also appears E3 included in its analysis all \$15.9 billion of the "business as usual" LDC-proposed future GSEP spending. *Id.*, at 43. Also, E3 breaks all capital spending in its model into two broad categories: "Meters and Services" and "Mains and Other." While E3 apparently enabled future investment in Meters and Services to vary somewhat as customers left the distribution system, the Mains and Other category "reflects assets that are used by many gas distribution customers or by the LDC as part of its standard operations and cannot necessarily be decommissioned with customer departures." *Id.*, at 42.

The picture that emerges from the Technical Report not only understates the cost of the hybrid electrification, but also overstates the cumulative system cost of aggressive electrification pathways by including no (or minimal) gas system cost savings as offsets to the costs of electrification. The Department cannot let the LDCs put off to another proceeding any serious consideration of capital costs savings, including planned costs for future GSEP spending, that

<sup>&</sup>lt;sup>15</sup> Technical Report, at 18.

can be avoided with aggressive and targeted electrification pathways. The Department should insist that E3 re-do its scenario analysis with reasonable and realistic savings opportunities in all capital and O&M spending – particularly including "business as usual" GSEP spending – that can reasonably be avoided through targeted electrification initiatives.

### VI. <u>CONCLUSION</u>

The analysis in the Technical Report, which tilts heavily towards a hybrid electrification pathway to emission reduction mandates in the buildings sector, rests on too many assumptions that are untried, untested and/or unsupported. Under any successful decarbonization pathway Massachusetts must aggressively begin to transition its building stock to clean, efficient electric heating technologies. Hybrid electrification, as posed by the LDCs, is a diversion that is unlikely to succeed due to its heavy reliance on expensive, unproven renewable natural gas. Any cost advantages claimed for hybrid electrification are due to incorrect assumptions about the availability and pricing of RNG supplies, and from the Technical Report's failure to reasonably evaluate and consider future gas infrastructure cost savings achievable through aggressive and targeted electrification scenarios.

The Brattle Group One Beacon Street, Suite 2600 Boston, Massachusetts 02108

Dean Murphy Josh Figueroa

May 6, 2022

Respectfully submitted,

MAURA HEALEY ATTORNEY GENERAL

Donald W. Boecke Jo Ann Bodemer

Assistant Attorneys General Office of Ratepayer Advocacy One Ashburton Place Boston, Massachusetts 02108 (617) 727-2200

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The Montague Police Department has chosen to utilize a delegated Assessment Center for the selection process for Police Sergeant. With the exception of additional points as required by statute or rule, this delegated selection process for Police Sergeant will be used as the sole basis for scoring and ranking candidates on an eligible list.

#### I. It is agreed that:

- HRD authorizes Regina Caggiano, Director of Civil Service, (617) 878-9747, and/or her designee to act as its representative in all matters relative to this delegation agreement. Primary responsibility for the administration of all delegated civil service functions, as described herein, for the Montague Police Department will be assigned to Richard Kuklewicz, who will serve as Delegation Administrator. They, or their designee, will be responsible for all matters relative to this delegation agreement.
- 2) Periodic or random audits of all examination materials, examination records, and/or delegated personnel transactions may be conducted at any time by representatives from HRD. All examination materials, records, ledgers and correspondence relating to the delegated functions shall be made readily available and accessible to HRD upon request. HRD may also at its option attend the administration of the examination as an observer. HRD retains the rights to review, retain, approve, and/or disapprove any and all examination related materials and/or records, before or after the administration of the examination, at its discretion
- 3) A report on any audit findings regarding delegated personnel transactions will be made available to the Delegation Administrator. Any corrective action as a result of the audit findings, must be taken by the Montague Police Department within thirty 30 days from receipt of the audit report. A written report of that corrective action shall be submitted to HRD.
- 4) The Human Resources Division will be responsible for notifying the Delegation Administrator on a timely basis of any changes in the law or regulations which may affect the delegated functions.
- 5) HRD reserves the right to take action, up to and including rescinding this agreement if the Montague Police Department or Assessment Center Vendor violates this delegation agreement.
- 6) HRD will be available to the Delegation Administrator throughout the delegation process and HRD will provide technical assistance to the Delegation Administrator upon request.
- 7) Changes in approved procedures for the administration of the delegated functions as outlined in this agreement may not be made without the review and approval of both parties. No duties may be assumed by the Delegation Administrator which have not been authorized by this agreement or subsequent attachment.
- 8) The cost of all services, forms, and materials provided directly by HRD shall be assumed by HRD unless otherwise agreed to by both parties. All other costs involved in the delegation of the functions set forth herein will be the responsibility of the Montague Police Department.
- 9) The Montague Police Department will pay HRD \$500 for its role in the administration of the Assessment Center. Payment must be remitted to HRD prior to the release of the scores.
- 10) Education and Experience is a component of this sole Assessment Center. The component weights will be 80% Assessment Center and 20% Education and Experience. Candidates are responsible for payment of \$250 each to HRD, for the Education and Experience administration. HRD will develop and score the Education and Experience.

- 11) A department promotional examination has been requested, therefore candidates will need to meet the eligibility criteria of a department promotional examination.
- 12) Individual candidate scores from the Assessment Center shall only be available to the individual candidates and HRD.
- II. The Montague Police Department shall:
  - 1) Except as otherwise stated in this agreement, pay all attendant costs associated with the development, administration, and scoring of the Police Sergeant assessment center.
  - 2) Ensure proper posting of the examination announcement in all Department stations.
  - 3) Be responsible for issuing notice to all candidates of any training materials that will be distributed to, or study sessions conducted for, applicants prior to the administration of the assessment center in order to familiarize them with assessment center procedures.
  - 4) Coordinate with HRD, and ensure that the Assessment Center vendor coordinates with HRD, regarding any Requests for Review permitted pursuant to Section 22 of Chapter 31 of the MGL.
  - 5) Ensure any "Fair Test Request for Review, Essay Request for Review, or Experience Request for Review", along with the Assessment Center Vendors' summary of facts related to the Request for Review and position, be forwarded to HRD. HRD will issue a determination as to all "Requests for Review".
  - 6) In the event that the assessment center is challenged, the Montague Police Department will ensure that the Assessment Center Vendor will provide evidence of said validation.
  - 7) Maintain a record of the examination for three years from the date of the examination.
- III. The Montague Police Department has agreed to hire an Assessment Center Vendor to administer and score a validated assessment center that is based on the results of a job analysis. The Montague Police Department must choose an Assessment Center Vendor who is willing to assume the following responsibilities in relation to this Delegation Agreement. Notwithstanding Paragraph VI, if the Assessment Center Vendor neglects to follow the requirements listed below, this Delegation Agreement may be revoked by HRD. Assessment Center Vendor responsibilities are as follows:
  - 1) Administer and score a validated assessment center that is based on the results of a job analysis.
  - 2) Follow any requirements of the Personnel Administration Rules, State and Federal Law.
  - 3) Provide HRD with Assessment Center subjects, statement of each Assessment Center exercise and length of each exercise.
  - 4) Fully cooperate with HRD regarding all instances of Requests for Review, (i.e., Fair Test Requests for Review, Essay Requests for Review, and Experience Requests for Review) (GL Chapter 31 § 22).
  - 5) Will appear and defend the Assessment Center content if an appeal is filed with the Civil Service Commission or any Court.
- IV. HRD delegates responsibility in the following areas to the Delegation Administrator Richard Kuklewicz and the Assessment Center Vendor:
  - 1) Determination of the knowledges, skills, abilities, and personal characteristics (KSAP's) that will be evaluated during the assessment center exercises as supported by job analysis data.
  - 2) The review and approval of the rating schedules to be used.
  - 3) The determination of a passing point for the assessment center.
  - 4) Develop the job simulated, content valid, exercises that will be used during the assessment center for which

validation evidence has been gather in accordance with professionally accepted guidelines.

- 5) Develop a security plan that will be utilized to ensure the integrity of the assessment center.
- 6) Select the assessors for the assessment center exercises, and train them in the administration of exercises, and the use of the relevant rating schedules
- 7) Provide any validation materials which support the assessment center activities.
- V. The Delegation Administrator shall be responsible for:
  - 1) Notifying all eligible candidates of: security of the administration and scoring of the Assessment Center which results in the establishment of an eligible list for Police Sergeant.
  - 2) Maintenance of the eligible list for Police Sergeant for a maximum of two years in accordance with applicable statutory language and HRD policy.
  - 3) Certification of the eligible list in accordance with civil service laws, rules, regulations and procedures.
  - 4) Notifying HRD of promoted employee(s) employment from the eligible list created.
  - 5) Ensuring that the examination referenced herein is administered within 18 months of the issuance of this Delegation Agreement. An extension of a maximum of six additional months may be approved by HRD upon review of a written request from the Delegation Administrator detailing extenuating circumstances necessitating such extension. Such request must be submitted at least 30 days prior to its expiration. A failure to administer this examination within the timeframe approved by HRD, will result in the cancellation of this examination and Delegation Agreement. The Delegation Administrator will be responsible for refunding any examination processing fee(s) paid by applicants.
  - 6) Ensuring continued public access to all records determined to be public information.
- VI. If at any time after the execution of this agreement either the Montague Police Department or HRD determines that delegation authority should be discontinued, reversion of the authority for all delegated functions to the Montague Police Department may be effected through 30 days' written notice, by e-mail, by either the Montague Police Department or the Personnel Administrator (Chief Human Resources Officer).
- VII. The specific functions to be delegated are described and detailed in this Agreement. As further functions are delegated, detailed descriptions shall be reviewed by both parties and appended to this Agreement.

DATE OF ISSUANCE: 5/17/2022

For the Montague Police Department:

Richard Kuklewicz Selectboard Chair

Date

For the Human Resources Division:

Jeff McCue Chief Human Resources Officer

Date

Req # : 8589 City : Montague Police/Fire: Police Exam Rank: Police Sergeant Department/Open: department promotional Sole AC Weight: 80 E&E Weight: 20 AA Name: Richard Kuklewicz AA Title: Selectboard Chair 4

Hi Wendy

For the May 23<sup>rd</sup> SB meeting, please include the following topic under TA Business.

• Congressman McGovern files \$675,000 federal earmark request for Avenue A Streetscape Improvements

### **Project Name: Avenue A Streetscape Improvement Project**

### Amount: \$675,000

Intended Recipient and Full Address: Town of Montague, One Avenue A, Turners Falls MA 01376 Explanation of Request: The Avenue A Streetscape Improvement Project will restore an ADA compliant, pedestrian-oriented streetscape in the heart of Turners Falls, which is Montague's retail, dining, and entertainment center, and a state-designated Cultural District. The project will connect smaller sections of the Streetscape the Town improved over the past five years with support from other sources. The scope of this bid-ready project includes replacing the aged brick sidewalks between First and Third Streets on the even side, and between First and Second Streets on the odd side of the avenue. Decorative brick features will be retained, but integrated into a concrete concourse to enhance longevity/accessibility. Pedestrian-scale lighting will be installed between First and Second Streets to match the existing downtown scheme. These improvements will improve the visual appeal and walkability of the village center, consistent with the Town's comprehensive COVID "rapid recovery" and ADA Transition plans.

See the Congressman's list of requested earmarks at: <u>https://mcgovern.house.gov/issues-list/fy-2023-community-funding-project-requests.htm</u>

It should be noted that the Congressman's inclusion of this request is not a guarantee of funding, but it is a critical hurdle that we have cleared. If all goes well and the federal budget timeline reflects recent norms, FY23 funding would likely be available in late spring/early summer of calendar year 2023. Funding recipients usually have a year from budget passage to at least obligate project funding. The Town had requested \$975,000 for the project and, if the funding comes through, will need to decide whether to supplement it (whether through CDBG or appropriation) in order to complete the full project as planned or to reduce its scope to match the available resources.

Steven Ellis Montague Town Administrator One Avenue A Turners Falls, MA 01376 413-863-3200 x110 www.montague-ma.gov

Pronouns: Him/His (or just call me Steve)





## Office of the Town Administrator

Town of Montague One Avenue A Turners Falls, MA 01376 Phone (413) 863-3200 ext. 108 FAX (413) 863-3231

May 17, 2022

The Honorable Natalie Blais natalie.blais@mahouse.gov

RE: H-4791 An act relative to equity in the cannabis industry

Dear Representative Blais,

Please accept this letter of concern from the Town of Montague regarding the proposed Act Relative to the Cannabis Industry (H-4791), which I understand to reflect many changes introduced to an original bill that left the Senate as S-2823. Please know that my concerns reflect those of the vast majority of municipal officials who have entered into Host Community Agreements (HCAs) with cannabis interests.

Allow me to start with two positive remarks. First, the establishment of clear rules and a funding stream for the social equity program is viewed as a positive development. Such guidance is in fact overdue and we applaud efforts to level the playing field for entry into market that is dominated by well positioned interests. Second, we are gratified to see that some of the progress reflected in the final version of S-2823 is continued in H-4791. In particular, I applaud the removal of language that would have made any new rules related to HCAs and impact fees retroactive to 2016. This would be very detrimental to municipalities that entered into agreements in good faith with cannabis firms.

The two divergent themes in the paragraph serve to underscore the problem with this Bill as it is crafted. The Bill's proponents have inappropriately combined important issues related to social equity and access to a new economic marketplace with HCA regulation in an obvious attempt to gain momentum to push through a bad idea (establishing the means to undo contractual agreements entered into in good faith) with a good idea (encouraging social equity through responsible policy guidance).

Although I would prefer to see the two subjects decoupled entirely, I will make one specific request for change in the present language.

1. Remove language in the Bill that mandates that the Cannabis Control Commission review all HCAs for compliance with the new rules prior to submission of a new license application <u>and at each renewal</u>.

Adding these last four words are a mandate for an annual CCC compliance review process that will predictably lead to the termination or radical redrafting of most host community agreements. Beyond issues of contract law, this ignores the reality that firms approached our community and universally

proclaimed their willingness to make these commitments, which we mutually agreed to be responsible and desirable. Since the first (and still only) cannabis establishment began commercial operation in Montague we have operated entirely in good faith, properly segmenting and using impact fees in a manner consistent with the terms of the applicable HCA. The good faith with which both partners entered into the agreement and have since conducted themselves will not matter. There are too many particulars and "don'ts" sprinkled throughout this legislation for them not to be flagged.

Municipalities such as Montague viewed the inherent risk of being early adopters and collaborators with cannabis establishments, and worked within what were reasonably understood to be the rules in coming to mutual agreements with those establishments. It is galling that those agreements – the basis for so many strategic decisions relative to the allowance of these firms to operate in our communities – are threatened as they are by this legislation. It is my sincere hope that the above highlighted language can be corrected in order to protect communities best interests relative to existing HCAs.

Please feel free to contact me with any questions if clarification is needed. As always, I appreciate the work you do on behalf of this Town, your District, and the Commonwealth.

Respectfully,

The Ellis

Steven Ellis, MPA Town Administrator

CC: Montague Selectboard Senator Jo Comerford MMA asks House members to avoid provisions in cannabis bill that woul... https://www.mma.org/advocacy/mma-asks-house-members-to-avoid-prov...

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MAY 18
 2022
 MMA asks House members to avoid provisions in cannabis bill that would interfere with local contract authority

Home  $\rightarrow$  Advocacy  $\rightarrow$  Testimony

Dear Representative,

On behalf of the cities and towns of the Commonwealth, the Massachusetts Municipal Association is writing regarding H. 4791, *An Act relative to equity in the cannabis industry*.

First, we want to applaud the provisions of the bill that advance social equity as a key priority. We strongly support the sections to create the Social Equity Trust Fund, and the creation of grants and loans for economic empowerment and social equity participants. This approach will make the Commonwealth a leader in creating pathways for equity in this industry.

As you know, throughout the emergence of the cannabis industry here in Massachusetts, cities and towns have been on the leading edge of the process, deciding whether to host commercial enterprises, and then negotiating in good faith to execute host community agreements. More than 1,000 such contracts have been put in place, establishing a platform for growth of the industry. Before moving forward on H. 4791, we urge you to contact the local officials in your district to discuss how this draft would impact any host community agreements that are in place. We have significant

reservations regarding the aspects of H. 4791 that, as written, appear to impose new requirements on existing host community agreements. Under this reading of the language, the measure would impact host community agreements that have already been executed in good faith, not just those that are yet to be negotiated, which could be very disruptive at the local level.

Cities and towns continue to oppose granting the Cannabis Control Commission (CCC) additional regulatory powers to interfere with host community agreements. Placing host community agreements in the hands of a regulatory agency would hinder the development of the industry, thwarting the goal of propelling it forward. Overregulation would create an uncertain landscape for cities and towns that are working to successfully navigate the emergence of the cannabis industry. Limiting the CCC's role relative to host community agreements would ensure that communities can continue to negotiate in good faith with businesses without worrying about stalled or delayed approval times, or counterproductive interference.

We also oppose new limitations on community impact fees and their subsequent elimination after five years. While the state is still in the beginning stages of developing the cannabis industry, it is problematic to eliminate these impact fees while we are still uncovering the true costs of this rapidly growing industry. There is a significant level of disagreement around how to quantify and recognize these fees, exacerbated by the multi-billion-dollar cannabis industry's highly effective campaign to downplay the direct and indirect impact of the industry on municipalities. The best method of reaching agreement is to allow the parties to do so directly, without state or industry interference.

In this context, the MMA respectfully asks you to <u>support</u> the following amendments, which would it make it clear that the bill applies to future host community agreements, not existing ones:

Amendment #19 – Rep. Blais's amendment protecting existing host community agreements from further commission review; and

Amendment #21 – Rep. Kushmerek's amendment to eliminate commission review at each license renewal, keeping the CCC's review at the time of initial licensure.

The MMA respectfully asks you to oppose the following amendment:

Amendment #23 – This amendment would allow a licensee to bring a breach of contract suit against a host community for impact fee disputes, burdening municipalities with costly litigation and creating pathways for licensees to undermine existing contracts.

We appreciate your consideration and attention to this important issue for the Commonwealth and our cities and towns. If you have any questions regarding our comments or require additional information, please do not hesitate to have your office contact me or MMA Legislative Analyst Ali DiMatteo at 617-426-7272, ext. 124, or adimatteo@mma.org.

Thank you very much for your support for cities and towns.

Sincerely,

Geoffrey C. Beckwith MMA Executive Director & CEO

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The House yesterday approved a wide-ranging cannabis bill that largely mirrors a <u>bill</u> <u>passed by the Senate</u> in April.

Unlike the Senate bill (<u>S. 2823</u>), however, the House bill (<u>H. 4791</u>) includes language that could retroactively subject existing host community agreements to review by the Cannabis Control Commission, a major concern for the MMA and local officials. With more than 1,000 host community agreements already executed, the provision could lead to numerous legal battles and undermine municipal authority.

The House bill would also eliminate community impact fees after the first five years of a licensee's operation. The MMA is concerned about eliminating these fees while municipalities are still uncovering the true costs of this rapidly growing and immature industry.

The MMA outlined its concerns about the House bill in a <u>May 18 letter to House</u> <u>members</u>.

The MMA has expressed concerns about language in both the House and Senate bills that would expand the authority of the Cannabis Control Commission in ways that would erode established local authority and cause counterproductive interference in contract negotiations. The MMA supports provisions in both bills establishing a Social Equity Trust Fund, which would provide grants and loans to Economic Empowerment and Social Equity participants.

The legislation would implement the most significant changes to state cannabis laws since the legalization of adult-use marijuana in 2017.

A House-Senate conference committee will be appointed to work out a final compromise bill, which will need to pass both chambers before being sent to the governor for his consideration. The MMA will continue to closely watch this issue and advocate for municipal needs.

Written by Ali DiMatteo, Legislative Analyst

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## HOUSE . . . . . . . No. 4791

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 17, 2022.

The committee on Ways and Means, to whom was referred the Senate Bill relative to equity in the cannabis industry (Senate, No. 2823), reports recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4791.

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For the committee,

AARON MICHLEWITZ.

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Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to equity in the cannabis industry (Senate, No. 2823). May 17, 2022.

### The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court (2021-2022)

By striking out all after the enacting clause and inserting in place thereof the following:-

1 SECTION 1. Section 1 of chapter 64N of the General Laws, as appearing in the 2020

2 Official Edition, is hereby amended by adding the following subsection:-

- 3 (c) "Social equity business", a marijuana retailer that is a social equity business, as
  4 defined in section 1 of chapter 94G.
- 5 SECTION 2. Section 5 of said chapter 64N, as so appearing, is hereby amended by
  6 adding the following paragraph:-

In the case of a social equity business, 1 per cent of the revenue collected pursuant to
section 2 from any social equity business shall not be deposited in the Marijuana Regulation
Fund, but shall be distributed, credited and paid by the state treasurer upon certification of the
commissioner to the city or town in which the social equity business is located.

SECTION 3. Section 1 of chapter 94G of the General Laws, as so appearing, is hereby
amended by inserting after the definition of "Host community" the following definition:-

13	"Host community agreement", an agreement between a marijuana establishment or a
14	medical marijuana treatment center and a municipality pursuant to subsection (d) of section 3.
15	SECTION 4. Said section 1 of said chapter 94G, as so appearing, is hereby further
16	amended by inserting after the definition of "Marijuana retailer" the following definition:-
17	"Medical marijuana treatment center", a medical marijuana treatment center as defined in
18	section 1 of chapter 94I.
19	SECTION 5. Said section 1 of said chapter 94G, as so appearing, is hereby further
20	amended by inserting after the definition of "Residual solvent" the following definition:-
21	"Social equity business", a marijuana establishment that is majority-owned by individuals
22	who are eligible for the social equity program under section 22, or whose ownership qualifies it
23	as an economic empowerment priority applicant as defined by the commission pursuant to
24	section 4.
25	SECTION 6. Section 3 of said chapter 94G, as so appearing, is hereby amended by
26	striking out subsection (b) and inserting in place thereof the following subsection:-
27	(b)(1) For the purposes of this subsection, the following words shall, unless the context
28	clearly requires otherwise, have the following meanings:
29	"Ballot question committee", as defined in section 1 of chapter 55.
30	"Registrars", as defined in section 1 of chapter 50.
31	(2)(i) The city council of a city and the board of selectmen, the select board or town
32	council of a town shall, upon the filing with the city or town clerk of a petition meeting the

requirements of subparagraph (ii), request to the city or town clerk that the question appearing in
said subparagraph (ii), as to whether to allow, in the city or town, the sale of marijuana and
marijuana products for consumption on the premises where sold, be submitted to the voters of
the city or town.

37 (ii) The petition shall be on a form prepared by the state secretary, signed by not less than 38 10 per cent of the number of voters of the city or town who voted at the preceding biennial state 39 election and filed with the city or town clerk, who shall then submit the petition to the registrars 40 forthwith. The registrars shall certify the signature of registered voters not more than 7 days after 41 receipt of the petition. Upon certification of the signatures, the registrars shall submit such 42 certification to the city council, town council or board of selectmen, as the case may be, which 43 shall cause the following question, and a fair and concise summary of the question to be prepared 44 by the city solicitor or town counsel, to be placed on the ballot for the next regularly occurring 45 municipal or state election in the city or town:

46 "Shall [city or town] allow the sale of marijuana and marijuana products, as those terms
47 are defined in section 1 of chapter 94G of the General Laws, for consumption on the premises
48 where sold, a summary of which appears below?"

(iii) The question shall appear on the ballot for the next regularly occurring municipal
election if the election is to be held not less than 35 days after certification. To appear on the
ballot for the next regularly occurring biennial state election, the city or town clerk shall provide
notice, including the ballot question and summary, to the state secretary not later than the first
Wednesday in August before the biennial state election.

(iv) If a majority of the votes cast in the city or town are not in favor of allowing the
consumption of marijuana or marijuana products on the premises where sold, such city or town
shall not have authorized the consumption of marijuana and marijuana products on the premises
where sold. If a majority of the votes cast in the city or town are in favor of allowing the
consumption of marijuana or marijuana products on the premises where sold, such city or town
shall have authorized the consumption of marijuana and marijuana products on the premises
where sold.

(3) As an alternative to a local voter initiative petition process pursuant to paragraph (2),
a city or town may, by ordinance or by-law, allow the consumption of marijuana or marijuana
products on the premises where sold. No local voter initiative shall be required if the sale of
marijuana and marijuana products for consumption on the premises is authorized by such
ordinance or by-law.

(4) A ballot question committee organized to favor or oppose a question placed on the
ballot pursuant to paragraph (2) of this subsection shall comply with applicable guidance and
regulations issued by the office of campaign and political finance for municipal ballot question
committees.

SECTION 7. Said section 3 of said chapter 94G, as so appearing, is hereby further
 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d)(1) A marijuana establishment or a medical marijuana treatment center seeking a new
license or renewal of a license to operate or continue to operate in a municipality that permits
such operation shall negotiate and execute a host community agreement setting forth the
conditions to have a marijuana establishment or medical marijuana treatment center located

within the host community, which shall include, but shall not be limited to, all stipulations of
responsibilities between the host community and the marijuana establishment or medical
marijuana treatment center.

79 (2)(i) Notwithstanding any general or special law to the contrary, a host community 80 agreement may include a community impact fee for the host community; provided, however, that 81 no host community agreement shall include a community impact fee after the fifth year of 82 operation of a marijuana establishment or a medical marijuana treatment center. The community 83 impact fee shall: (A) be reasonably related to the costs imposed upon the municipality by the 84 operation of the marijuana establishment or medical marijuana treatment center, which shall be 85 calculated as the costs imposed in the preceding year by the operation of said establishment or 86 treatment center, reduced by the costs that would be imposed upon the municipality by a 87 business entity that is not a marijuana establishment or medical marijuana treatment center, as 88 documented pursuant to subparagraph (iii); (B) amount to not more than 3 per cent of the gross 89 sales of the marijuana establishment or medical marijuana treatment center; (C) not be effective 90 after the marijuana establishment or medical marijuana treatment center's fifth year of operation; 91 (D) commence on the date the marijuana establishment or medical marijuana treatment center is 92 granted a final license by the commission; and (E) not mandate a certain percentage of total or 93 gross sales as the community impact fee.

94 (ii) Notwithstanding any general or special law to the contrary, the community impact fee
95 shall encompass all payments and obligations between the host community and the marijuana
96 establishment or a medical marijuana treatment center. The community impact fee shall not
97 include any additional payments or obligations, including, but not limited to, monetary
98 payments, in-kind contributions or charitable contributions by the marijuana establishment or

99 medical marijuana treatment center to the host community or any other organization. Payment of 100 the community impact fee shall be due annually to the host community, with the first payment 101 occurring not sooner than upon the first annual renewal by the commission of a final license to 102 operate the marijuana establishment or medical marijuana treatment center. Any other 103 contractual financial obligation that is explicitly or implicitly a factor considered in, or is a 104 condition of, a host community agreement, shall not be enforceable. Nothing in this section shall 105 preclude a marijuana establishment or a medical marijuana treatment center from voluntarily 106 providing organizations with monetary payments, in-kind contributions or charitable 107 contributions after the execution of the host community agreement; provided, however, that a 108 host community agreement shall not include a promise to make a future monetary payment, in-109 kind contribution or charitable contribution.

(iii) Any cost imposed upon a host community by the operation of a marijuana establishment or medical marijuana treatment center shall be documented by the host community and transmitted to the licensee not later than 1 month after the date of the annual renewal of a final license to operate the marijuana establishment or medical marijuana treatment center and shall be a public record as defined by clause Twenty-sixth of section 7 of chapter 4 and chapter 66.

(iv) If a licensee has cause to believe that the information documented and transmitted by a host community is not reasonably related to the actual costs imposed upon the host community in the preceding year by the operation of the marijuana establishment or medical marijuana treatment center, the licensee may petition the commission to review the costs documented by the host community and determine if the host community's calculation of reasonably related costs conforms to the requirements of this section; provided, that the commission may consider

the reasonableness of past community impact fees paid under the same host communityagreement during its review.

124 (3) The commission shall review and approve each host community agreement as part of 125 a completed marijuana establishment or medical marijuana treatment center license application 126 and at each license renewal. If the commission determines that a host community agreement is 127 not in compliance with this section, the commission shall provide written notice of any 128 deficiencies and may request additional information from the prospective licensee and host 129 community. The commission shall not approve a final license application unless the commission 130 approves the host community agreement and certifies that the host community agreement 131 complies with this subsection. The commission shall complete its review of a host community 132 agreement not later than 45 days after it is received by the commission.

(4) A host community may waive the host community agreement requirement; provided,
however, that the host community shall submit to the commission a written waiver executed by
the host community and the marijuana establishment or medical marijuana treatment center.

(5) Notwithstanding any general or special law to the contrary, all host communities shall establish procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities; provided, that the commission shall establish minimum acceptable standards for such procedures and policies that may be adopted by host communities to achieve compliance with the requirements of this paragraph. A city or town that is not a host community shall establish such procedures and policies before entering into a host community agreement with a marijuanaestablishment or medical marijuana treatment center.

SECTION 8. Subsection (a) of section 4 of said chapter 94G, as so appearing, is hereby
amended by striking out clauses (xxvii) and (xxviii) and inserting in place thereof the following
4 clauses:-

148 (xxvii) monitor any federal activity regarding marijuana;

(xxviii) adopt, amend or repeal regulations for the implementation, administration andenforcement of this chapter;

151 (xxix) review, determine the lawfulness of and approve host community agreements
152 pursuant to paragraph (3) of subsection (d) of section 3; and

153 (xxx) prioritize social equity program businesses, economic empowerment priority
154 applicants and any other class of applicants the commission deems eligible for expedited review.

SECTION 9. Subsection (a<sup>1</sup>/<sub>2</sub>) of said section 4 of said chapter 94G, as so appearing, is
hereby amended by striking out clauses (xxxiii) and (xxxiv) and inserting in place thereof the
following 4 clauses:-

(xxxiii) requirements that prohibit marijuana product manufacturers from altering or utilizing commercially-manufactured food products when manufacturing marijuana products unless the food product was commercially manufactured specifically for use by the marijuana product manufacturer to infuse with marijuana; provided, however, that a commerciallymanufactured food product may be used as an ingredient in a marijuana product if: (A) it is used in a way that renders it unrecognizable as the commercial food product in the marijuana product; and (B) there is no statement or advertisement indicating that the marijuana product contains the
 commercially-manufactured food product;

166 (xxxiv) energy and environmental standards for licensure and licensure renewal of

167 marijuana establishments licensed as a marijuana cultivator or marijuana product manufacturer;

168 (xxxv) criteria for reviewing and approving host community agreements and community
 169 impact fees, including, but not limited to, criteria for calculating community impact fees
 170 consistent with paragraph (2) of subsection (d) of section 3; and

171 (xxxvi) minimum acceptable standards for municipal policies to promote and encourage
172 full participation in the regulated marijuana industry pursuant to paragraph (5) of subsection (d)
173 of section 3.

SECTION 10. Section 14 of said chapter 94G, as so appearing, is hereby amended by
inserting after the words "chapter 132B", in line 15, the following words:-; provided, however,
that, annually, 15 per cent of the fund shall be transferred to the Cannabis Social Equity Trust
Fund established in section 14A.

SECTION 11. Said chapter 94G is hereby further amended by inserting after section 14
the following new section:-

Section 14A. (a) There shall be a Cannabis Social Equity Trust Fund to encourage the full participation in the commonwealth's regulated marijuana industry of entrepreneurs from communities that have been disproportionately harmed by marijuana prohibition and enforcement. The fund shall consist of: (i) funds transferred pursuant to subsection (b) of section 14; and (ii) any funds from private sources, including, but not limited to, gifts, grants and

donations. Money in the fund shall be used to make grants and loans, including no-interest loans
and forgivable loans, to social equity program participants and economic empowerment priority
applicants. The fund shall be administered by the executive office of housing and economic
development, in consultation with the cannabis social equity advisory board established in
subsection (b). Money remaining in this fund at the end of the fiscal year shall not revert to the
General Fund.

191 (b) There shall be a cannabis social equity advisory board, hereinafter referred to as the 192 advisory board, consisting of individuals from, or with experience advocating on behalf of, 193 communities that have been disproportionately harmed by marijuana prohibition and 194 enforcement. The board shall consist of: 1 person appointed by the governor with a background 195 in the cannabis industry, who shall serve as chair; 1 person appointed by the treasurer and 196 receiver-general with a background in finance or commercial lending; 1 person appointed by the 197 attorney general with a background in business development or entrepreneurship; and 2 persons 198 appointed by a majority vote of the governor, treasurer and receiver-general and attorney 199 general, both of whom shall have experience in business development, preferably in the cannabis 200 industry. When making appointments, an appointing authority shall select individuals who are 201 from, or have experience advocating for, communities that have been disproportionately harmed 202 by marijuana prohibition and enforcement. Each advisory board member shall serve for a 5-year 203 term and may be reappointed by their appointing authority, and shall serve without compensation 204 except for reimbursement of actual expenses reasonably incurred in the performance of their 205 duties as a member or on behalf of the advisory board. Any vacancy in a seat on the advisory 206 board shall be filled by the appropriate appointing authority within 60 days of the vacancy. The 207 appointing authority may remove an advisory board member who was appointed by that

appointing authority for cause. Before removal, the advisory board member shall be providedwith a written statement of the reason for removal and an opportunity to be heard.

210 (c) The executive office of housing and economic development, in consultation with the 211 advisory board, shall promulgate regulations governing the structure and administration of the 212 fund, including, but not limited to: (i) requirements for social equity businesses and 213 municipalities who host such businesses to apply to receive a grant or loan from the fund; (ii) 214 conditions of such grants and loans; (iii) procedures pertaining to marijuana establishments or 215 medical marijuana treatment centers that default on a loan from the fund; and (iv) a process by 216 which a license is sold as a result of a licensee's default on a loan from the fund. The secretary of 217 housing and economic development, in consultation with the advisory board, shall be responsible 218 for the selection of recipients, grant or loan values and conditions for such grants or loans.

219 (d) Annually, not later than July 31, the executive office of housing and economic 220 development, in consultation with the advisory board, shall report on expenditures from the fund 221 in the previous fiscal year. The report shall include, but shall not be limited to: (i) information 222 that identifies and describes the amount of money expended from the fund; (ii) a list of the 223 entities that received a grant or loan from the fund; (iii) the geographic location of recipient 224 entities; (iv) the form of funding received by each entity; (v) information indicating whether each 225 recipient entity is a minority-owned entity; and (vi) any other information that the executive 226 office and the advisory board deem appropriate to ensure equity and accountability. The report 227 shall be filed with the clerks of the house of representatives and the senate, the house and senate 228 committees on ways and means and the joint committee on cannabis policy. The executive office 229 shall make the report publicly available on its website.

SECTION 12. Said chapter 94G is hereby further amended by adding the followingsection:-

232	Section 22. The commission shall administer a social equity program to encourage and
233	enable full participation in the marijuana industry of people from communities that have been
234	disproportionately harmed by marijuana prohibition and enforcement and to positively impact
235	those communities. The program shall offer: (i) technical assistance and training; and (ii) access
236	to funds available through the Cannabis Social Equity Trust Fund, established in section 14A, to
237	individuals certified by the commission as economic empowerment priority applicants and that
238	meet other criteria determined by the commission.
239	SECTION 13. Subsection (a) of section 22 of chapter 270 of the General Laws, as
240	appearing in the 2020 Official Edition, is hereby amended by inserting after the definition of
241	"Enclosed" the following definition:-
242	"Licensed marijuana social consumption establishment", an establishment that: (i) is
243	licensed by the Massachusetts cannabis control commission established in section 76 of chapter
244	10 for the sale of marijuana and marijuana products for consumption on the premises where sold;
245	and (ii) permits smoking of marijuana on the premises.
246	SECTION 14. Subsection (c) of said section 22 of said chapter 270, as so appearing, is
247	hereby amended by inserting after paragraph (5) the following paragraph:-
248	(5 <sup>1</sup> / <sub>2</sub> ) A licensed marijuana social consumption establishment;

SECTION 15. Chapter 276 of the General Laws, as so appearing, is hereby amended byinserting after section 100K the following section:-

251 100K<sup>1</sup>/<sub>4</sub>. (a) Notwithstanding the requirements of section 100I and section 100J, a court
252 shall, within 30 days of a petition being filed, order the expungement of a record created as a
253 result of a criminal court appearance, juvenile court appearance or disposition for:

(1) the possession or cultivation of an amount of marijuana decriminalized by chapter
387 of the acts of 2008;

(2) the possession or cultivation of an amount of marijuana decriminalized by chapter334 of the acts of 2016;

(3) the possession or cultivation of an amount of marijuana decriminalized by chapter 55
of the acts of 2017;

(4) possession of marijuana with intent to distribute decriminalized by chapter 387 of the
acts of 2008, chapter 334 of the acts of 2016 or chapter 55 of the acts of 2017; or

(5) distribution of marijuana based on an amount of marijuana decriminalized by chapter
387 of the acts of 2008, chapter 334 of the acts of 2016 or chapter 55 of the acts of 2017.

(b) Prior to entering an order of expungement pursuant to section (b), the court shall hold
a hearing if requested by the petitioner or the district attorney. Upon the granting or denial of a
petition for expungement, the court shall enter written findings of fact.

(c) The court shall forward any order of expungement pursuant to this section forthwith
to the clerk of the court where the record was created, to the commissioner and to the
commissioner of criminal justice information services appointed pursuant to section 167A of
chapter 6.

271	SECTION 16. (a) Notwithstanding any general or special law to the contrary, a host
272	community shall establish initial procedures or policies required by paragraph (5) of subsection
273	(d) of section 3 of chapter 94G of the General Laws not later than July 1, 2023.
274	(b) The failure of a host community to establish procedures or policies pursuant to
275	subsection (a) shall result in a monetary penalty to the host community equal to the annual total
276	of community impact fees received from all marijuana establishments or medical marijuana
277	treatment centers operating within the host community, to be deposited into the Cannabis Social
278	Equity Trust Fund established in section 14A of said chapter 94G.
279	SECTION 17. Initial appointments to the cannabis social equity advisory board
280	established in section 14A of chapter 94G of the General Laws shall be made not later than 60
281	days after the effective date of this act.
282	SECTION 18. The Massachusetts cannabis control commission shall promulgate or

amend regulations as necessary to be consistent with this act not later than 1 year from theeffective date of this act.



# Tighe&Bond

Turners Falls Dam 1 Gatehouse Avenue, Turners Falls, Massachusetts RTN 1-21504

## Immediate Response Action Plan

Firstlight Power

April 2022

100% Recyclable

F-0211 April 22, 2022



Mr. David Slowick Massachusetts Department of Environmental Protection 436 Dwight Street Springfield, MA 01103

#### Re: Immediate Response Action Plan Actuator Hydraulic Leak 1 Gatehouse Avenue, Turners Falls RTN 1-21504

Dear Mr. Slowick:

Tighe & Bond has prepared this Immediate Response Action (IRA) Plan on behalf of Firstlight Power (Firstlight) regarding a release of hydraulic oil from pistons 7 and 8 of Bascule Gate #4 at the Turners Falls Dam located at the above-referenced address. The release was identified when an oil sheen was observed on surface water of the Connecticut River below the gate. This report has been prepared in accordance with the IRA provisions of the Massachusetts Contingency Plan (MCP, 310 CMR 40.0424).

### **Release History**

On February 23, 2022 at approximately 10:30 AM, staining was observed on the ice around pistons 7 and 8 below Bascule Gate #4 of the Turners Falls Dam. Additionally, FirstLight personnel added hydraulic fluid to the closed hydraulic system to top off the reservoir, indicating there had been a release. An unknown volume of hydraulic oil was released from pistons 7 and 8, causing a sheen on the surface water of the Connecticut River immediately below the gate.

An oil sheen on surface water constitutes a 2-hour reportable release condition in accordance with MCP requirements. The Massachusetts Department of Environmental Protection (MassDEP) was notified of the release on February 23, 2022 at 12:20 PM by Firstlight and the National Response Center (NRC) was notified at 4:11 pm. Subsequently, MassDEP issued a Notice of Responsibility and assigned Release Tracking Number (RTN) 1-21504 to the release. The Release Notification Form (RNF, BWSC-103) for this release is being submitted electronically through eDEP concurrently with this report. This form can be viewed using the MassDEP Bureau of Waste Site Cleanup online database website and searching RTN 1-21504.

At the time of notification, MassDEP required and approved completion of IRA activities consisting of deployment of absorbent materials to the surface water sheen and source of release. Due to cold temperatures and significant ice accumulation at the base of the gate, access to this area of the dam was not possible at the time of reporting. Adsorbent materials were deployed to surface water when access was possible by boat on March 15, 2022.

### **Site Description**

The site location is shown on Figure 1 – Site Locus Map, Figure 2 – Priority Resources Map, and the Figure 3 – Aerial Photograph Site Plan, and a Bascule Gate Diagram, included in Appendix A. The site is located at the Turners Falls Dam bascule gates. The sheen was limited to surface water in close proximity of Bascule Gate #4 (pistons 7 and 8), the northern-most bascule gate. There are rock islands on either side of Bascule Gate #4, creating a small channel that is confining the release laterally.

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### Tighe&Bond

The site is located on the border of Turners Falls (Montague), Gill, and Greenfield on the Connecticut River, in an area of mixed residential, commercial, and recreational zones. The Massachusetts Office of Geographic Information (MassGIS) mapping (Figure 2) identifies the site as being located in an area of MassDEP open water, National Heritage and Endangered Species Program (NHESP) priority habitats for rare species, NHESP estimated habitats for rare wildlife, and approximately 100 feet from a hydrologic connection. No other priority resources are identified on Figure 2 within 500 feet of the Site.

Within a half-mile of the Site, two NHESP Potential Vernal Pools are located to the northeast and southeast, a MassDEP Inland Wetland is located to the northeast, and several Protected and Recreational Open Spaces are located to the north, west and south along the Connecticut River. No other priority resources are identified on Figure 2 within a half-mile of the Site.

### **Description of Source of Release**

With the observation of a sheen on the Connecticut River in the immediate area of the dam, Firstlight personnel investigated potential sources, but due to ice on the face of the dam, the pistons were not accessible. The hydraulic system is pressurized when the bascule gates are raised, so the system is always under pressure. To date, approximately 300 gallons of hydraulic fluid has been added to the reservoir and is assumed to have been released from pistons 7 and 8. The volume required to top off the hydraulic reservoir has decreased as temperatures have warmed, apparently due to the expansion the gaskets/seals on the piston preventing significant oil from being released.

Hydraulic oil drips are typically maintained using adsorbent materials at the source; however, during the months with ice freezing at the dam, access to these areas is not possible. The leak from pistons 7 and 8 accumulated in the pit of the cylinders and some amount was released to ice and surface water below Bascule Gate #4, causing the observed staining in the ice and sheen on the river.

### **Summary of IRA Activities**

On February 24, 2022, Tighe & Bond met with Firstlight and Clean Harbors Environmental Services (CHES) personnel to conduct a site walk and inspect the surface water conditions in the vicinity of the Turners Falls dam. Conditions at the time of the site walk are shown in the photolog (Appendix B). Due to the ice accumulation at the base of the dam in the immediate vicinity of Bascule Gate #4, adsorbent booms could not be applied to the surface water, so no response actions could safely be performed. Spilling water from the Gill Spillway churns the water in the Connecticut River, and was observed to confine the released hydraulic fluid within the rock islands below the dam (see Photo #2 in Appendix B). The sheen area is checked daily by Firstlight personnel.

Response actions completed between March 3<sup>rd</sup> and April 19<sup>th</sup>, 2022 are summarized as follows:

- **March 3, 2022**: CHES returned to the Site to deploy a containment boom across the small cove in the Connecticut River, between two rock islands and below Bascule Gate #4, where an oil sheen was observed. CHES accessed this area using a small boat and attached the containment boom between the two rock islands in the Connecticut River.
- March 15, 2022: CHES returned to the Site to re-install a containment boom. The boom installed on March 3<sup>rd</sup> came loose due to excessive turbulence caused by water spilling at the tainter gate. An absorbent boom was concurrently installed across the cove. On March 22, 2022, FirstLight observed that the containment boom became dislodged, however the absorbent boom remained in place across the cove. CHES could not access the containment boom to reposition it, due to water spilling at the tainter gate and large quantities of ice remaining on the face of the dam.

- **April 4, 2022**: CHES returned to the Site to attempt to throw coiled absorbent booms from a platform adjacent to Bascule Gate #4 into the Connecticut River below the dam, due to the lack of accessibility. The attempt was unsuccessful.
- **April 11, 2022**: FirstLight slightly lowered Bascule Gate #4 in an attempt to allow water to flow around the seals of the bascule gate to melt the ice on the face of the dam.
- **April 13, 2022**: TEAM Industrial Services, of Swedesboro, New Jersey injected a proprietary product into the seals of the leaking pistons (pistons 7 and 8) to seal the hydraulic fluid leak, preventing further hydraulic fluid release from the pistons.
- **April 14, 2022**: CHES returned to the Site to replace the absorbent boom which was placed in the cove between the two islands below Bascule Gate 4 (and pistons 7 and 8, see photos 2, 4, 5 and 6 in Appendix B). Two absorbent booms and an oil containment boom were strung between the islands. The hydraulic fluid observed on the surface of the Connecticut River has been limited to a sheen, with no separate-phase oil or emulsified product observed on the river surface. Remediation waste was added to FirstLight's oily waste stream.
- **April 19, 2022**: CHES returned to the Site to install two additional absorbent booms within the rocky cove below the dam, upgradient from the containment boom. The absorbent boom downgradient from the containment boom was removed because the flow from the Connecticut River destroyed it, rendering it ineffective at containing the hydraulic fluid. Remediation waste was added to FirstLight's oily waste stream.

### Immediate Response Action Plan

Additional response actions necessary to repair the leak at the hydraulic actuator cannot be safely performed until after the spring freshet. The water level of the Connecticut River must drop adequately to lower the gate and allow safe access to the gate for installation of jack stands to support the dam and scaffolding necessary to make this repair. Once the river is low enough, estimated around June 2022, this repair infrastructure can be installed to safely access the pistons to make the necessary repairs.

Upon completion of the repair of the hydraulic leak and confirmation of no additional leaks, a Permanent Solution Statement will be prepared and submitted to MassDEP. Response actions are not likely to be completed within 60 days of the submittal of this IRA Plan, so submission of an IRA Status report is expected. Any mitigation efforts completed during this period will be reported in the IRA Status Report.

### **Permits**

Federal, state, and local permits are not required for the proposed response actions.

### <u>Waste</u>

Remediation waste generated to date were added to FirstLight's oily waste stream.



### **Public Notification**

In accordance with the public notification requirements specified in 310 CMR 40.1403, the Town Administrator and Director of Public Health for the Town of Montague are being notified of the submittal of the Release Notification Form (BWSC-103). A copy of the public notification letter is included in Appendix C.

If you have any questions regarding this site, please contact the undersigned at (413) 572-3227.

1

Very truly yours,

### TIGHE & BOND, INC.

Jeffrey Arps, LSP Vice President

Enclosures:

Appendix A	Figures
Appendix B	Photolog
Appendix C	Public Notification