

State Climate & Energy Tech Forum: State PUC Overview for Energy and Environment Officials

**Presentation of Ann G. Berwick,
Undersecretary for Energy,
Commonwealth of Massachusetts
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New Organization

New reorganization legislation January 2007:

Created Executive Office of Energy and Environmental Affairs (EEA)—moved the

- Department of Energy Resources (DOER, the energy office)
- the Department of Public Utilities (DPU)
- the Energy Facility Siting Board (EFSB, within the DPU)

from Consumer Affairs into what had been just the environmental secretariat, now the energy and environmental secretariat.

Reorganized the DPU—5 to 3 members, without designated specialties.

Reorganized the Energy Facility Siting Board, now chaired by the Secretary of EEA.

The intention: Bring the energy and environmental agencies into one home.

The Green Communities Act (GCA)— new roles for the DPU and DOER

New progressive energy legislation in July 2008:

- Facilitates the development of renewables through more robust renewable portfolio standards (DOER role), long-term contracts for renewables (DOER and DPU roles), utility ownership of renewables (DPU role), innovative net metering provisions (DOER and DPU roles).
- Mandates all cost-effective energy efficiency in preference to conventional generation (DOER and DPU roles).
- Many other innovations, e.g., Green Communities program (DOER), smart meter pilot program (DPU), progressive building code (Board of Building Regulations and Standards with DOER advice).

Communications between EEA and the DPU

- The DPU has both adjudicatory and regulatory functions.
- In adjudications, the DPU is independent, even with respect to EEA. Among other things, this means that conversations between EEA and the DPU are prohibited *ex parte* contacts.
- When EEA wants to weigh in on an adjudicatory proceeding, it does so on the record, through DOER.
- With respect to regulations, EEA must sign off. EEA can speak directly to the DPU without violating *ex parte* rules, though it often speaks in writing through the DOER, to get its views on the record.

Communications between EEA and the EFSB

- The EFSB also has an adjudicatory function, but both EEA and DOER are represented on the Board. If EEA/DOER wanted to weigh in other than through its institutional membership (e.g., to introduce evidence), it would have to do so on the record.
- The EFSB has recently struggled with the extent to which it can get information from other state agencies such as the Department of Environmental Protection (which is also represented on the Board), other than as record evidence.
- Unlike the DPU, the EFSB deliberates in public—by virtue of its own regulations, not because it is required to do so by statute.