

MEMORANDUM

TO: NEPOOL Participants Committee

FROM: William P. Short III for Freedom Companies
Lisa Linowes for Industrial Wind Action Group

DATE: September 30, 2026

RE: Environmental League of Massachusetts Application for Governance-Only Small End User Membership

EXECUTIVE SUMMARY & REQUESTED ACTION

We respectfully request that the NEPOOL Participants Committee (“NPC”) defer action for 60 to 90 days on the Environmental League of Massachusetts’ (“ELM”) application for Governance-Only Small End User membership while NEPOOL conducts a targeted review of the purpose, eligibility standards, and representational integrity of the End User Sector.

ELM’s application exposes a fundamental question in current governance practice: Is the End User Sector intended to represent entities participating because of their primary stakeholder interest as electricity consumers, or any entity that happens to pay a utility bill? Under the current interpretation, any trade association, law firm, consultant, or advocacy group can obtain an End User vote simply by maintaining a New England electric account, regardless of whether its actual interest in NEPOOL relates to its own electricity consumption.

Resolving this policy question before approving ELM’s application ensures the long-term integrity of NEPOOL’s stakeholder sectors. NEPOOL already possesses the procedural mechanisms to allow policy advocates to participate without diluting voting sectors, and NPC precedent explicitly supports revisiting eligibility rules when these ambiguities arise.

A. The Utility Bill Standard and the Non-Profit Representation Gap

NEPOOL Counsel’s September 25 memorandum confirms that ELM established Small End User eligibility solely by submitting an Eversource electric bill, without providing donor or membership lists. Membership Subcommittee discussions regarding RENEW Northeast confirmed the same rule: maintaining a New England utility account is currently treated as sufficient for Small End User voting status.

That reading creates a gap when applied to nonprofits.

The Participant Agreement expressly provides an End User Organization category for nonprofits representing New England electricity consumers, with defined organizational and consumer-representation thresholds. ELM, however, is not seeking membership under that category. It is an energy and environmental policy advocacy organization with a Corporate Council of approximately 35 companies, three of which are already NEPOOL Participants in other Sectors, and it seeks Small End User status based on its routine office electricity consumption rather than on representation of an End User constituency.

We do not assert that those companies are “Related Persons” or that they formally govern ELM. The issue is the standard. A nonprofit can obtain the same End User Sector vote without meeting the consumer-representation requirements written for End User Organizations. If an electric bill alone confers that vote,

any trade association, law firm, consultant, or advocacy group with a New England account can occupy an End User seat even though its interest in NEPOOL is not its own electricity consumption.

Current practice decides how an applicant technically qualifies. It does not decide what stakeholder interest the vote is supposed to represent.

B. Proxy Restrictions Do Not Resolve the Eligibility Question

Counsel notes that a Small End User may not designate a Participant or Related Person in another Sector as its voting representative. However, that rule only governs who may cast the vote. It does not address the threshold governance issue of who should receive an End User voting seat in the first place.

Preventing an outside Participant from directly casting ELM's vote does not resolve whether ELM itself represents the consumer stakeholder interest the End User Sector was created to serve.

C. NPC Retains Full Authority to Grant Associate Non-Voting Status

Deferring this application does not mean excluding policy advocates from NEPOOL. The NPC has existing mechanisms to permit meaningful participation without assigning a voting seat in a stakeholder Sector.

Section 1.9A broadly defines an Associate Non-Voting Participant as a Participant determined by the NPC or its designee to hold that status. Counsel's memorandum notes that the Membership Subcommittee's *delegated* authority to grant Associate Non-Voting status is limited to gas industry participants and energy trade associations. However, this describes the limits of the Subcommittee's delegated authority and not the authority retained by the NPC itself.

The 2021 framework establishing Associate Non-Voting status explicitly affirmed that entities falling outside delegated subcommittee categories may still be designated as Associate Non-Voting Participants by the NPC. We are not asking the NPC to mandate Associate status for ELM today, but rather to recognize that this alternative exists and should be evaluated during the requested review period.

D. NPC Precedent Supports a Targeted Eligibility Review

This Committee has previously recognized that End User eligibility is not a purely mechanical exercise. During the NPC's review of Alan Sliski's End User application in September 2024, members deliberated whether End User status was appropriate "either definitionally or as a policy matter" and explicitly noted in the minutes that "Sector eligibility requirements could reasonably be revisited in the future."¹

ELM's application demonstrates why the existing precedent should now be revisited. The issue is no longer whether the current interpretation has been applied before, but whether it remains consistent with the purpose and representational integrity of the End User Sector.

¹ NEPOOL Participants Committee Minutes, September 5, 2024, discussion of Alan Sliski End User membership application, available at: https://nepool.com/wp-content/uploads/2024/08/Minutes_NPC_2024_0905.pdf

E. Requested Action & Scope of Review

We respectfully request that the NPC defer action on ELM's application for 60 to 90 days and establish a temporary working group to report back on the following five questions:

1. **Sector Purpose:** What primary stakeholder interest is the End User Sector intended to represent?
2. **Sufficiency Threshold:** Is routine electricity consumption alone sufficient to establish End User Sector voting eligibility?
3. **Institutional Distinction:** How should NEPOOL distinguish between entities participating because of their direct interests as electricity consumers versus entities participating primarily for policy, legal, or industry advocacy?
4. **Cross-Sector Integrity:** How should formal relationships with Participants in other Sectors (such as advisory or corporate councils) be evaluated to protect against overlapping representation and sector dilution?
5. **Non-Voting Alternatives:** When an applicant has a legitimate interest in NEPOOL proceedings but does not principally represent an End User consumer interest, should Associate Non-Voting Participant status serve as the appropriate vehicle for participation?

This review should be neutral, forward-looking, and applied consistently across all future applicants.