



Policy on Voluntary Payment-in-Lieu-of-Taxes (PILOT)

Policy Number:

Adopted by: MMLD Board of Commissioners

Effective date:

Purpose and Background

The Marblehead Municipal Light Department (“MMLD” or “the Department”) is a municipal light plant operating pursuant to Massachusetts General Law, Chapter 164. As a locally owned not-for-profit utility, MMLD exists to provide safe, reliable, clean and reasonably priced electricity to the residents and businesses of Marblehead. Consistent with common practice among public power utilities nationwide, municipal light plants often provide voluntary financial contributions to their host communities as a recognition of the community benefits of public ownership. National analysis from the American Public Power Association notes that approximately 91% of public power utilities make such voluntary payments.

Under Massachusetts law, any transfer of funds from a municipal light plant to its host municipality is strictly voluntary. The Department of Public Utilities (DPU) has consistently held that (a) municipal light plants have no legal obligation to make in-lieu-of-tax payments, and (b) any such payments must be funded only from below-the-line surplus, defined as the plant’s income remaining after accounting for all statutory expenses and up to an 8% return on net plant.

MMLD has historically provided to the Town a flat annual Expected PILOT amount of \$330,000; in 2025 the Actual PILOT was \$360,000.

<u>Year</u>	<u>Electric Sales (MWh)</u>	<u>PILOT Payment</u>	<u>PILOT Payment (\$/MWh)</u>
2020	100,625	\$330,000	\$3.28
2021	102,374	\$330,000	\$3.22
2022	100,689	\$330,000	\$3.28
2023	96,828	\$330,000	\$3.41
2024	98,811	\$330,000	\$3.34
2025	99,865	\$360,000	\$3.60

The purpose of this policy is to formalize a clear, transparent, and predictable structure for determining, approving, and transferring any voluntary Payment-in-Lieu-of-Taxes (“PILOT”) from MMLD to the Town of Marblehead (“the Town”) in the future.

Definitions

For purposes of this policy:

- **MMLD:** The Marblehead Municipal Light Department
- **Town:** The Town of Marblehead
- **Fiscal year:** MMLD's fiscal year, January 1 – December 31.
- **Payment in lieu of taxes** ("PILOT"): A discretionary transfer of Department funds to the Town, made in accordance with this policy and Massachusetts law.
- **Surplus:** Below-the-line income available after all operating expenses, depreciation, interest, debt payments, and the allowed statutory return on net plant have been satisfied.
- **Expected PILOT:** The anticipated amount used for Town and MMLD budgeting purposes.
- **Actual PILOT:** The amount transferred from the MMLD to the Town.
- **General Manager:** The General Manager of MMLD or designee.
- **Board:** The MMLD Board of Commissioners.

3. Legal Framework

PILOT payments must comply with Massachusetts General Laws and DPU precedent, including the following principles:

1. PILOT payments are not required and cannot be treated as taxes or utility operating expenses. They must be made, if at all, from below-the-line surplus funds
2. MMLD may not raise rates or include PILOT as an above-the-line cost for the purpose of generating funds to support such payments.
3. The Board must exercise prudent management discretion, ensuring that any PILOT does not impair MMLD's ability to maintain reliable service, invest in infrastructure, and meet future financial obligations
4. The Department may adjust the PILOT in any year in which sufficient surplus is not available.

4. PILOT Determination Method

MMLD intends to maintain a simple, transparent, and predictable PILOT structure based on power sales of the prior fiscal year.

4.1 Actual PILOT Amount

- The actual PILOT shall be calculated as \$3.60/MWh of power sales occurring in the previous fiscal year, unless explicitly modified by the Board through a policy update.
- The actual PILOT shall not be less than \$360,000 annually, unless explicitly directed by the Board.
- Any modification to the actual PILOT shall be communicated to the Town Administrator.

4.2 Expected PILOT Amount

- The Expected PILOT used for Town budgeting purpose shall be \$360,000 annually, unless modified by the Board through a policy update.
- Any modification to the Expected PILOT shall be communicated to the Town Administrator as soon as MMLD becomes aware of the change.

4.3 Annual Review

Each March, after year-end financials are available, the Board shall evaluate whether sufficient Surplus exists to support the Expected PILOT. The Board may approve:

- The actual PILOT;
- The Expected PILOT; or
- A reduced PILOT, if financial conditions warrant.

In conducting this annual evaluation, the Board will consider:

1. The availability of Surplus funds;
2. Cash reserves and liquidity needs;
3. Capital investment requirements;
4. Risk exposure (e.g., volatile energy markets, storm costs);
5. Recommendations of the General Manager.

5. Timeline

1. **Budgeting** (Start of Fiscal Year): Expected PILOT incorporated into both Town and MMLD budgeting as a planning figure.
2. **Fiscal Year Close** (December 31): Surplus is calculated after closing books.
3. **Board Approval** (By March 31): MMLD Board votes on actual PILOT amount.
4. **Transfer** (By June 30): Upon approval, MMLD transfers the PILOT amount to the Town Treasurer.

6. Conditions for Payment

MMLD may transfer a PILOT only when the following conditions are met:

- The Department has a positive Surplus after fully accounting for depreciation, debt service, operating costs, and the statutory return on net plant.
- The payment does not create or contribute to financial instability, rate increases, or insufficient reserves.
- The Board has voted affirmatively, in public session, to authorize the transfer.

7. Early Warning Provision

If, during any Fiscal Year, the General Manager determines that revenue reductions, extreme market volatility, storm-related expenses, or other financial risks may impair MMLD's ability to meet the Expected PILOT, the General Manager shall notify the Town Administrator promptly.

8. Transparency and Reporting

To support accountability and public understanding:

- The Board's annual PILOT vote shall occur in an open public meeting.
- MMLD will publish the approved PILOT amount in its annual report and on its website.
- The Department will track and report PILOT payments as part of the annual budget cycle.

9. Policy Review

This policy shall be reviewed by the Board at least every five (5) years, or more frequently if required by changes in legal or financial conditions, or as requested by the General Manager or the Town Administrator.