

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-58-D

December 31, 2020

Inquiry of the Department of Public Utilities into Establishing Policies and Practices for Electric and Gas Companies Regarding Customer Assistance and Ratemaking Measures in Connection to the State of Emergency Regarding the Novel Coronavirus (COVID-19) Pandemic.

D.P.U. 20-91

Investigation by the Department of Public Utilities into (1) the Ratemaking Proposal of the Electric and Gas Companies Subject to the Department's Jurisdiction for the Treatment of Costs Related To the Financial Impacts of the State of Emergency Declared Regarding the Novel Coronavirus (COVID-19) Pandemic and (2) Alternative Bill Payment Options for Customers.

**INTERIM ORDER ON RATEMAKING PROPOSAL
AND VOTE AND ORDER OPENING INVESTIGATION**

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I. SUMMARY

By this Order, the Department of Public Utilities (“Department”) accelerates our review of the cost-recovery provisions of the Ratemaking Proposal filed by the jurisdictional electric and gas distribution companies (collectively “Distribution Companies,” individually “Distribution Company”)¹ on August 5, 2020, as part of the Customer Assistance and Ratemaking Working Group (“Working Group”) established in D.P.U. 20-58. In this Order, the Department conditionally approves the agreed upon cost-recovery provisions of the Ratemaking Proposal. The Department also opens a new investigation, which we docket as D.P.U. 20-91, into (1) the contested cost-recovery provisions identified in the Ratemaking Proposal and

¹ The Distribution Companies are the following: Fitchburg Gas and Electric Light Company d/b/a Unitil; Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid; Boston Gas Company d/b/a National Grid; NSTAR Gas Company d/b/a Eversource Energy; NSTAR Electric Company d/b/a Eversource Energy; Eversource Gas Company of Massachusetts d/b/a Eversource Energy; Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities; and The Berkshire Gas Company.

(2) alternative bill payment options for customers, which was the object of the stalled working group process in D.P.U. 19-71.^{2,3}

The Distribution Companies filed the Ratemaking Proposal in response to the Department's invitation to the Working Group to develop initiatives regarding the treatment of costs related to the financial impacts of the state of emergency declared regarding the novel coronavirus ("COVID-19") pandemic. The Ratemaking Proposal identifies areas of consensus and opposition among Working Group members. The Department greatly appreciates the efforts of the Working Group and acknowledges that the members have reached consensus on many topics and issues.

² On June 7, 2019, the Department opened an industry-wide investigation into alternative bill payment options for customers of the Distribution Companies. NSTAR Electric Company, D.P.U. 18-50 (2019)/Bill Payment Alternatives for Customers of Gas and Electric Distribution Companies, D.P.U. 19-71 (2019). The Department opened the investigation in D.P.U. 19-71 in response to fee-free credit/debit card proposal filed by NSTAR Electric Company ("NSTAR Electric") in its most recent base distribution rate case, NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17-05 (2017) and raised by NSTAR Electric in connection with a customer satisfaction metric in its performance-based ratemaking ("PBR") compliance filing. D.P.U. 18-50/19-71, at 3-4. The Department rejected NSTAR Electric's fee-free credit/debit card proposal in the base distribution rate proceeding. D.P.U. 17-05, at 517. In D.P.U. 18-50, although NSTAR Electric proposed a scaled back fee-free initiative, the Department determined that an industry-wide examination of the issue was appropriate. D.P.U. 18-50/D.P.U. 19-71, at 4-5, 8.

³ The Department established the Working Group in Establishing Policies and Practices for Electric and Gas Companies Regarding Customer Assistance and Ratemaking Measures in Connection to the State of Emergency Regarding the Novel Coronavirus ("COVID-19") Pandemic, D.P.U. 20-58 (May 11, 2020). In addition to the Distribution Companies, the Working Group members are: the Office of the Attorney General ("Attorney General"); the Department of Energy Resources ("DOER"); the National Consumer Law Center ("NCLC"); the Low-Income Energy Affordability Network ("LEAN"); and Associated Industries of Massachusetts ("AIM").

In D.P.U. 20-58, the Department has examined the consensus positions of the Ratemaking Working Group and has conditionally approved those provisions of the Ratemaking Proposal. Also, by this Order, the Department exercises its supervisory and ratemaking authority pursuant to G.L. c. 164, §§ 76, 94 to establish certain cost tracking and data reporting requirements for the Distribution Companies. Therefore, to enable this process, and in consideration of the exigent circumstances of the pandemic and Department-mandated moratorium on shut offs, the Department will allow each Company to record, defer, and track the incremental cost areas outlined in the Ratemaking Proposal, subject to the Department's final determination of the ratemaking treatment in D.P.U. 20-58 and D.P.U. 20-91. In D.P.U. 20-91, the Department will adjudicate the contested cost-recovery provisions identified in the Ratemaking Proposal and consider proposals to expand alternative customer bill payment options.

In examining the contested provisions of Ratemaking Proposal, the Department will exercise its broad ratemaking authority to ensure that customers are charged just and reasonable rates. In addition, the Department will fulfill its function to regulate in the public interest, taking into account the needs of customers in the current health and financial circumstances as well as taking a close consideration of the financial integrity of the Distribution Companies in support of their obligation to provide reliable service to their customers. In investigating alternative bill payment options for customers, the Department will exercise this same ratemaking and public interest authority.

II. INTRODUCTION AND PROCEDURAL HISTORY

A. Overview

In dockets D.P.U. 20-58 and D.P.U. 20-91, the Department examines the ratemaking measures proposed by the Distribution Companies in response to the financial and business effects of the COVID-19 pandemic; in addition, the Department considers the three additional proposals offered by the Attorney General. The Department will determine whether and how to implement these special ratemaking measures in satisfaction of our regulatory duty to ensure the delivery of safe, reliable, and continuing service at just and reasonable rates. Attorney General v. Department of Telecommunications and Energy, 438 Mass. 256, 264 n.13 (2002); Attorney General v. Department of Public Utilities, 392 Mass. 262, 265 (1984); Fitchburg Gas and Electric Light Company v. Department of Public Utilities, 371 Mass. 881, 882 (1977); New England Gas Company, D.P.U. 10-114 at 22 (2011); Boston Gas Company, D.P.U. 93-60 at 212 (1993). In docket D.P.U. 20-58, the Department has accelerated the implementation of the agreed-upon provisions of the Ratemaking Proposal. In docket D.P.U. 20-91, we will examine the Ratemaking Proposal through an adjudicatory process and seek to resolve the outstanding issues identified therein. Also, in D.P.U. 20-91, the Department will examine proposals to expand alternative customer bill payment options, including a fee-free credit/debit card option.

The Department has previously recognized that the COVID-19 pandemic has caused not only a public health emergency, but a significant economic disruption. D.P.U. 20-58 at 2; D.P.U. 20-58-A at 5. Massachusetts residents face unemployment, lost income, lost health insurance coverage, and increased costs for goods and services. D.P.U. 20-58 at 2. Additionally, businesses, especially small businesses, face temporary and permanent closures, reduced

revenues, reductions in workforce, increased accounts payable, and reduced demand for goods and services. D.P.U. 20-58 at 2. The consequences of the COVID-19 pandemic have resulted in financial challenges across all customer classes, including customers not previously experiencing financial hardship.

The COVID-19 pandemic also has affected the financial position of jurisdictional electric, gas, and water distribution companies, and utilities throughout the country. Utilities face shifts in demand and usage, increased operational burdens, collections shortfalls, and voluntary and mandatory moratoriums on disconnections. These issues impact cash flow, which result in increased short-term borrowings amidst uncertain financial markets. As the financial position of the utilities would not be representative of a normal test year, the need for examining ratemaking measures to address the effects of this pandemic is apparent.

The downstream implications of the COVID-19 pandemic on rates and customers' ability to pay utility bills warrants a full and fair open process that permits the opportunity for interested persons to seek to participate. Moreover, the unresolved differences between the Distribution Companies and the Attorney General regarding particular matters outlined in the Ratemaking Proposal, which are distinct from the customer assistance measures contemporaneously being implemented through D.P.U. 20-58, necessitate examination in an adjudicatory proceeding through the development of an evidentiary record.

Although NSTAR Electric proposed its fee-free payment option before the COVID-19 pandemic outbreak, the economic crisis resulting from the pandemic makes industry-wide examination of alternative bill payment options for customers even more appropriate. With the advance of the health crisis to a financial crisis, Distribution Companies must re-evaluate key

aspects of their business models to address both the fact that the crisis has challenged many customers to sustain the means to pay recurring bills and the Distribution Companies' need to maintain critical cash flow to provide necessary utility service.

In the next sections, the Department summarizes the procedural history that gives rise to the instant Order.

B. COVID-19 State of Emergency Declaration; Shut-Off Moratorium

On March 10, 2020, pursuant to St. 1950, c. 639 and G.L. c. 17, § 2A, Governor Baker declared a state of emergency in Massachusetts related to the COVID-19 pandemic. Executive Order No. 591. Subsequently, on March 24, 2020, Governor Baker granted the Chairman of the Department authority pursuant to G.L. c. 25, § 4B to take necessary action to assure public safety and welfare through the priority restoration or continuing availability of gas, electric, and water utility services. The same day, the Chairman issued an Order prohibiting investor-owned gas, electric, and water distribution companies from shutting off utility service, or threatening to shut off utility service, to any customers for non-payment of bills until the state of emergency in the Commonwealth related to COVID-19 is lifted or further communication is provided by the Department (“Shut-Off Moratorium”). Chairman's First Set of Orders under G.L. c. 25, § 4B (March 24, 2020). Following a series of Orders issued pursuant to G.L. c. 25, § 4B, on November 18, 2020, the Chairman issued a Seventh Set of Orders extending the Shut-Off Moratorium.⁴

⁴ Specifically, the Chairman directed the investor-owned gas, electric, and water companies to: (1) until April 1, 2021, or until the companies receive further communication under G.L. c. 25, § 4B, not shut off gas, electric, or water service to any of their residential customers for failure to pay a bill or any portion of a bill; and (2) until March 1, 2021, or until the companies receive further communication under G.L. c. 25, § 4B, not send communications that threaten to shut off gas, electric, or water service to

C. D.P.U. 20-58

On May 11, 2020, the Department opened an inquiry into establishing policies and practices regarding customer assistance and ratemaking measures for jurisdictional electric and gas distribution companies in response to the effects of the COVID-19 pandemic. Notice of Inquiry into Establishing Policies and Practices for Electric and Gas Companies Regarding Customer Assistance and Ratemaking Measures in Connection to the State of Emergency Regarding the Novel Coronavirus (“COVID-19”) Pandemic, D.P.U. 20-58 (May 11, 2020) (“NOI”). The Department established the Working Group to assist the Department in establishing appropriate policies and practices. NOI at 4.

Among other directives, the Department directed the Working Group to develop a consensus ratemaking proposal to support customer assistance initiatives and to maintain the financial integrity of the utilities in response to COVID-19. NOI at 10.⁵ As an initial framework for the Working Group’s consideration of ratemaking measures, the Department asked the Distribution Companies to provide a ratemaking proposal to the Working Group. NOI at 5. The Department directed the Working Group to file its ratemaking proposal identifying any differences. NOI at 10.

any of their residential customers for failure to pay a bill or any portion of a bill that the companies issued to a customer. Chairman's Seventh Set of Orders under G.L. c. 25, § 4B (November 18, 2020). The Commission has since ratified the Chairman’s Seventh Set of Orders. Ratification of the Chairman’s Seventh Set of Orders under G.L. c. 25, § 4B (December 28, 2020).

⁵ The Department also directed the Working Group to file an initial report containing consensus recommendations regarding several proposed customer assistance policies and practices. NOI at 5. The Working Group filed the Report of the Customer Assistance and Ratemaking Working Group on May 29, 2020. For a more complete background on the customer assistance portion of this case, refer to D.P.U. 20-58-A at 1-2.

D. D.P.U. 19-71

In response to a fee-free credit/debit card initiative proposed by NSTAR Electric in NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17-05, the Department opened an investigation into the fee-free proposal and to consider various customer bill payment options on a statewide basis for all electric and gas distribution customers.

D.P.U. 18-50⁶ and Customer Bill Payment Alternatives for Gas and Electric Distribution Companies, D.P.U. 19-71, at 9 (2019). At the direction of the Department, the Distribution Companies convened a working group with the Attorney General, LEAN, and Massachusetts Energy Directors Association to exchange ideas and information regarding customer bill payment options and to develop a settlement proposal. D.P.U. 18-50/19-71 at 10; D.P.U. 19-71, Distribution Companies Update Letter (September 20, 2019). Despite their efforts, the working group has not reached a settlement to date. The working group filed its last status report on November 26, 2019.

III. RATEMAKING PROPOSAL AND POSITIONS OF WORKING GROUPA. Overview

The Ratemaking Proposal outlines the Distribution Companies' proposals for COVID-19 financial-related impacts; included are three proposals offered by the Attorney General (Ratemaking Proposal at 1-11). The Ratemaking Proposal identifies areas of agreement and

⁶ As stated above, docket D.P.U. 18-50 involved a review of NSTAR Electric's proposed PBR metrics, which included a debit/credit card fee-free initiative as part of a customer satisfaction metric. D.P.U. 18-50/19-71, at 3-4.

disagreement among the Distribution Companies and the Attorney General (Ratemaking Proposal at 1-11).⁷

The Working Group identified the following general principles in the development of the Ratemaking Proposal: (1) cost recovery should be limited to the incremental costs incurred; (2) certain costs must be extraordinary to qualify for recovery; (3) the Distribution Companies should be allowed to defer costs; and (4) the potential need for securitization (Ratemaking Proposal at 1-3). The Distribution Companies and the Attorney General disagree on the following general principles: (1) whether Distribution Companies with a performance-based ratemaking (“PBR”) mechanism should be permitted to recover incremental bad debt costs or COVID-19 expenses through this proceeding; (2) whether any level of incremental COVID-19 operating and maintenance (“O&M”) expense should be allowed for recovery by the Distribution Companies; and (3) whether the Distribution Companies and their shareholders should absorb some losses associated with the pandemic and resulting economic downturn (Ratemaking Proposal at 2).

The following sections describe the Distribution Companies’ and the Attorney General’s proposals.

⁷ The Distribution Companies and the Attorney General submitted separate, supplemental comments to the Department on August 12, 2020 to provide the Department with support for the positions taken where consensus was not reached (Distribution Companies’ Supplemental Comments (August 12, 2020); Attorney General Supplemental Comments (August 12, 2020)).

B. Distribution Companies' Proposal⁸

1. Overview

The Distribution Companies' Ratemaking Proposal for COVID-19 financial-related impacts includes recovery requests for each of the following five cost categories: (1) cash working capital;⁹ (2) arrearage forgiveness; (3) bad debt; (4) COVID-19 O&M expenses; and (5) waived fees (Ratemaking Proposal at 1).

⁸ Please note the change in Distribution Companies and the applicability of tariffs from the date of the filing of the Ratemaking Proposal. On October 13, 2020, the Department approved the acquisition by Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities ("Liberty Utilities") of the operations, gas-system assets, and customer base of Blackstone Gas Company ("Blackstone Gas"). Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities Acquisition of Blackstone Gas Company, D.P.U. 20-03 (October 13, 2020). As part of the approved transaction, customers of the legacy Blackstone Gas will take service under Liberty Utilities's tariffs, except that these customers will be charged under Blackstone Gas's gas adjustment factor and will not be charged under Liberty Utilities's gas system enhancement program. D.P.U. 20-03, at 6-7. On October 7, 2020, among other things, the Department approved Eversource Energy's acquisition of substantially all of the assets of Bay State Gas Company ("Bay State Gas"), which were transferred to Eversource Energy's newly created subsidiary, Eversource Gas Company of Massachusetts ("Eversource Gas"). Eversource Energy, NiSource Inc., Eversource Gas Company of Massachusetts, and Bay State Gas Company d/b/a Columbia Gas of Massachusetts, D.P.U. 20-59/19-140/19-141 (October 7, 2020). Under this transaction, customers of the legacy Bay State Gas take service from Eversource Gas under Bay State Gas's tariffs. D.P.U. 20-59/19-140/19-141, at 10. On December 3, 2020, the Department approved Eversource Gas's compliance tariffs that identify its legal business name and are numbered sequentially, starting with M.D.P.U. No. 1. See D.P.U. 20-59, at 67.

⁹ The Ratemaking Proposal includes the treatment of the purchase of receivables ("POR") under the cash working capital category. This POR proposal would change discount rates charged to competitive suppliers rather than result in cost recovery from ratepayers. Nevertheless, the Department summarizes the POR proposal under the cash working capital category.

2. Cash Working Capital

The Distribution Companies propose to re-run the cash working capital study typically performed during a base distribution rate case and use the new payment lag to establish an updated calculation for cash working capital (Ratemaking Proposal at 3). The Distribution Companies would multiply the incremental amount by the pre-tax weighted average cost of capital (“WACC”) as approved in each Distribution Company’s last base distribution rate case to determine the total incremental cash working capital cost associated with the increased accounts receivables balance due to COVID-19 (Ratemaking Proposal at 3; Distribution Companies’ Supplemental Comments at 2-5).

The Distribution Companies recommend that electric companies recover this amount through their revenue decoupling mechanism (“RDM”) (Ratemaking Proposal at 3; Distribution Companies’ Supplemental Comments at 2-5). The recovery of these costs would not be subject to the RDM cap.¹⁰ (Ratemaking Proposal at 3; Distribution Companies’ Supplemental Comments at 2-5). They recommend that gas companies recover this amount through the local

¹⁰ In the calculation of the reconciliation under the RDM, an electric or gas company’s under-recovery is capped at a percent of total revenues from the prior year for electric companies and total revenues from the prior period (peak or off-peak period) for gas companies. Any RDM reconciliation adjustment amount not recovered because of the cap limitation is deferred for recovery in the next reconciliation period. For gas companies the cap is at three percent. For electric companies, the cap is at 1.5 percent for Fitchburg Gas and Electric Light Company and at one percent for NSTAR Electric Company and Massachusetts Electric Company/Nantucket Electric Company. For gas companies, *see, e.g.*, The Berkshire Gas Company, Revenue Decoupling Adjustment Clause, M.D.P.U. No. 548, § 1.5. For electric companies: Fitchburg Gas and Electric Light Company, Revenue Decoupling Adjustment Clause, M.D.P.U. No. 358, § 6.0; NSTAR Electric Company, Revenue Decoupling Adjustment Mechanism, M.D.P.U. No. 60F, § 1.07; and Massachusetts Electric Company/Nantucket Electric Company, Revenue Decoupling Mechanism Provision, M.D.P.U. No. 1454, § III.

distribution adjustment charge (“LDAC”) (Ratemaking Proposal at 4; Distribution Companies’ Supplemental Comments at 2-5).

The Working Group agrees on these implementation details except that the Attorney General proposes use of a company’s short-term borrowing rate rather than WACC (Ratemaking Proposal at 3; Attorney General Supplemental Comments at 10-11). Also, the Attorney General recommends a set cut-off date (May-June 2022) for any cash working capital adjustment, while the Distribution Companies would rely on the ease of financial constraints to inform the end of adjustments (Ratemaking Proposal at 3).

The Distribution Companies propose to revise the timing of payments to competitive suppliers for POR to address the net cash deficit created by the payment lags of competitive supply customers (Ratemaking Proposal at 4). This revision would recalculate the timing of payment to competitive suppliers (Ratemaking Proposal at 4-5). The Working Group maintains that the Terms and Conditions for Competitive Suppliers and Terms and Conditions for Municipal Aggregators allow for this change to be made, if approved by the Department (Ratemaking Proposal at 4-5).

3. Arrearage Forgiveness

The Distribution Companies propose to continue to recover costs for the residential arrearage management program (“AMP”) through the residential assistance adjustment factor (“RAAF”) with the potential to expand recovery over more than one year depending on the magnitude of the bill impacts (Ratemaking Proposal at 5). The Distribution Companies anticipate an increase in the number of customers that qualify for, and participate in, the residential AMP program compared to prior years (Ratemaking Proposal at 5). In addition, the Distribution Companies propose that costs associated with the one-time small commercial

customer arrearage forgiveness program will be deferred for future recovery

(Ratemaking Proposal at 5).¹¹

The other Working Group members agree with the proposal to continue recovery of AMP-related costs through the RAAF and to defer the small commercial arrearage costs; however, the Attorney General would limit the Distribution Companies' recovery to 50 percent of these costs to share the burden of the pandemic between shareholders and customers (Ratemaking Proposal at 5; Attorney General Supplemental Comments at 5).

4. Bad Debt

The Distribution Companies propose to continue recovery of commodity-related bad debt through existing reconciling mechanisms,¹² but foresee that recovery may need to be extended over a reasonable time dependent on the amount of bad debt (Ratemaking Proposal at 5). The other Working Group members generally support this approach; however, the Attorney General recommends consideration of securitization,¹³ which the Distribution Companies do not favor (Ratemaking Proposal at 5; Distribution Companies Supplemental Comments at 10; Attorney General Supplemental Comments at 7-8).

¹¹ The Department approved this program in D.P.U. 20-58-C (September 3, 2020). The Department approved extending the program extended until April 1, 2021. Stamp-Approved Joint Motion to Extend Small Commercial Arrearage Forgiveness Program, D.P.U. 20-58 (December 20, 2020).

¹² Electric distribution companies recover bad debt cost for commodity through Basic Service rates and the POR discount rate, while gas distribution companies recover these costs through their Gas Adjustment Factors (Ratemaking Proposal at 5).

¹³ The Working Group does not agree regarding what is intended by the term securitization, how securitization would be implemented, or whether it is an appropriate option in any specific circumstance (Ratemaking Proposal at 2, n.1).

For delivery-related bad debt, the Distribution Companies propose to calculate a normal level of bad debt as the higher of the amount included in base distribution rates or the three-year average of the delivery-related net charge offs for the years 2017, 2018, and 2019 (Ratemaking Proposal at 5). For a Distribution Company with a PBR mechanism, the Distribution Companies propose that the level of bad debt cost included in base distribution rates should be adjusted by any annual PBR adjustment that has occurred (Ratemaking Proposal at 5). Each month or quarter, the Distribution Companies will compare the computed normal level of bad debt cost to the bad debt expense that their accountants determine, according to General Accepted Accounting Principles (“GAAP”) (Ratemaking Proposal at 5-6). Amounts recorded for expense in excess of the baseline amount will be deferred as the proxy for future recovery (Ratemaking Proposal at 6). At the time that each Distribution Company makes a request from the Department to authorize recovery of the deferred bad debt cost, the recovery will be based exclusively and entirely on the level of actual bad-debt write-offs experienced over the established baseline amount (Ratemaking Proposal at 6). The Distribution Companies are tracking bad-debt write-offs as of July 1, 2020 and will continue for two years with a report submitted August 1, 2022 (Ratemaking Proposal at 6).¹⁴ This report will detail actual net charge-offs for the 24-month period in excess of the computed baseline, which is the amount that would be eligible for recovery (Ratemaking Proposal at 6).

The Distribution Companies identified areas of agreement and disagreement in implementation details among the Working Group members (Ratemaking Proposal at 6). For

¹⁴ The Department construes the Distribution Companies’ plans to file the August 1, 2022 report as a filing to be made with the Department.

example, the Distribution Companies agree to provide specified monthly information on specified data and to track basic information surrounding bad debt costs (Ratemaking Proposal at 6). There is disagreement over the application of a threshold over an established baseline for recovery of bad debt costs: the Attorney General favors application of a threshold, but the Distribution Companies do not (Ratemaking Proposal at 6).

5. COVID-19 O&M Expenses

At the time of the Ratemaking Proposal, the Distribution Companies proposed to defer incremental COVID-19 O&M expenses for later consideration by the Department (Ratemaking Proposal at 7). As part of a COVID-19 O&M expense review, each Distribution Company plans to address whether and to what extent operating cost savings might have occurred as a result of suspended work activities, which would offset the incremental cost incurred for COVID-19 safety protocols and related costs (Ratemaking Proposal at 7). The incremental O&M expenses identified to date by the Distribution Companies include but may not be limited to the following: (1) staff sequestering; (2) facilities cleaning; (3) personal protection equipment; and (4) other costs incremental to costs recovered through base distribution rates that were necessary to work safely in providing an emergency response to the Governor's state of emergency (Ratemaking Proposal at 7).

The Attorney General opposes any recovery of incremental COVID-19 O&M expenses by the Distribution Companies (Ratemaking Proposal at 7; Attorney General Supplemental Comments at 6-8). The Attorney General contends that a PBR mechanism would compensate the Distribution Companies with the mechanism for the COVID-19 O&M costs (Attorney General Supplemental Comments at 6). The Attorney General opposes recovery by the other Distribution Companies because (a) as a general matter, cost categories identified by

the Distribution Companies are standard costs recovered through base distribution rates, (b) COVID-19 costs would be offset by cost reductions in other areas, and (c) costs after offsetting reductions would be relatively low and could be absorbed by the Distribution Companies without any significant financial impact (Attorney General Supplemental Comments at 6-7).

6. Waived Fees

The Distribution Companies propose that waived fees should be deferred for later consideration by the Department (Ratemaking Proposal at 8). Revenues from fees are not included in the RDMs (Ratemaking Proposal at 8). The Distribution Companies are currently waiving certain fees for services due to exigent circumstances, including payment transaction fees, credit card fees, reconnection fees, late fees, and other fees (Ratemaking Proposal at 8).

The Working Group participants agree on the deferral proposal, for the Distribution Companies to track and report on categories of waved fees, and that treatment of waived credit card fees would be determined through Customer Bill Payment Alternatives for Gas and Electric Distribution Companies, D.P.U. 19-71 (Ratemaking Proposal at 8-9).

C. Attorney General's Proposals

1. Overview

In addition to the five proposed cost areas discussed above, the Attorney General offers three additional proposals relating to: (1) lost revenues; (2) cost mitigation; and (3) data collection (Ratemaking Proposal at 9-11). As described further below, the Distribution Companies generally support the proposals (Ratemaking Proposal at 9).

2. Lost Revenues

The Attorney General recommends that the Distribution Companies track usage and sales to determine whether additional action regarding RDMs may be appropriate (Ratemaking Proposal at 9). The Distribution Companies agree with this recommendation (Ratemaking Proposal at 9). The Attorney General suggests that the Department should require the Distribution Companies to provide this information in quarterly updates to the Working Group (Ratemaking Proposal at 9).

3. Cost Mitigation

The Attorney General proposes that the Distribution Companies should: (1) identify opportunities for cost reductions, including by analyzing capital and O&M costs currently recovered through reconciling mechanisms or PBR mechanisms to determine what projects can be put on hold; and (2) offset increased costs by seeking government grants, loans, credits, payments, or other subsidies, including CARES Act¹⁵ benefits (Ratemaking Proposal at 9).¹⁶ The Distribution Companies agree to evaluate all potential alternatives for cost savings and provide clear, reviewable information to the Department on the efforts undertaken in relation to each of these categories (Ratemaking Proposal at 9).

¹⁵ “The Coronavirus Aid, Relief, and Economic Security Act,” Public Law 116–136.

¹⁶ The Attorney General further argues that prior to presenting any costs for recovery, each Distribution Company also should demonstrate that it has maximized potential O&M cost reductions to mitigate the increases in ratepayer costs due to COVID-19, including: employee raises/bonuses/incentive compensation (outside of those required by contract); and reduction of discretionary O&M spending (Attorney General Supplemental Comments at 7).

4. Data Collections

The Attorney General seeks data from the Distribution Companies that includes continuation of arrearage data, additional bad debt metrics, company financial health data, and a range of customer-specific data (Ratemaking Proposal at 9-11). The Distribution Companies agree to provide the requested data to the extent feasible with the existing information systems and note that the Distribution Companies have varied capabilities to provide items requested by the Attorney General with differing degrees of detail (Ratemaking Proposal at 9). The Distribution Companies note, as an example, that providing data by zip code may not be feasible for one or more Distribution Company (Ratemaking Proposal at 9).

IV. REVIEW OF RATEMAKING AND CUSTOMER BILL PAYMENT PROPOSALS

A. Introduction

The economic challenges that the COVID-19 pandemic poses for Massachusetts residents is apparent. The Department has emphasized our duty regulate in the public interest and to balance customers' need for financial assistance against the need to ensure that utilities possess the financial resources to maintain essential services. NOI at 2-3 & nn.4, 5; D.P.U. 20-58-A at 5. In furtherance of this duty, the Department established the Working Group comprised of various stakeholders to make recommendations regarding customer assistance and ratemaking measures, and we have approved numerous Working Group proposals relating to customer outreach and assistance. See D.P.U. 20-58-A at 5-9 (June 26, 2020) (approval of four-phase customer outreach program from "awareness & education" to "business as usual," with timing from phase to phase based on progress in the public health response to the pandemic); D.P.U. 20-58-B at 13-19 (July 31, 2020) (approval of customer assistance plan involving (1) extended payment plans and waiver of late fees; (2) extended plans under available arrearage management

programs; and (3) continuation of the utility service moratorium); D.P.U. 20-58-C at 7-9 (September 30, 2020) (approval of small commercial arrearage forgiveness program).

The Department strives to ensure low-cost service not only by mitigating the financial hardships faced by customers, but also by promoting positive implications for the Distribution Companies' operational health. D.P.U. 20-58-A at 5-6. As evidenced by the recommendations presented in the Working Group's Ratemaking Proposal, the Distribution Companies are not insulated from the effects of the COVID-19 pandemic and they have been critical in providing a measure of financial relief to customers. In ascertaining the appropriate ratemaking treatment of COVID-19 related financial impacts on the Distribution Companies, it is necessary that the Department balances customers' need for financial assistance and the Distribution Companies' need for adequate financial resources to continue to provide safe and reliable services to their customers.

Pursuant to G.L. c. 164, § 94, the Legislature has granted the Department extensive ratemaking authority over electric and gas distribution companies. The Supreme Judicial Court has consistently found that the Department's authority to design and set rates is broad and substantial. See, e.g., Boston Real Estate Board v. Department of Public Utilities, 334 Mass. 477, 485 (1956). In addition, G.L. c. 164, § 76 grants the Department broad supervision over electric and gas distribution companies. Under G.L. c. 164, § 76, the Department has the authority to establish reasonable rules and regulations consistent with G.L. c. 164, as needed, to carry out its administration of jurisdictional companies in the public interest. Revenue Decoupling, D.P.U. 07-50-B at 26-27 (2008). See also Cambridge Electric Light Company v. Department of Public Utilities, 363 Mass. 474, 494-496 (1973). The

Department will apply a public interest standard in our review of the Ratemaking Proposal and alternative customer payment options. The public interest constitutes an overarching consideration in the Department's fulfillment of its regulatory and ratemaking duties. Wolf v. Department of Public Utilities, 407 Mass. 363, 369 (1990) (mission of the Department is to regulate in the public interest), citing Zachs v. Department of Public Utilities, 406 Mass. 217, 223 (1989); Lowell Gas Light Company v. Department of Public Utilities, 319 Mass. 46, 52 (1946) (function of the Department is the protection of the public interests). In the next sections, we address the Department's actions in dockets D.P.U. 20-58 and D.P.U. 20-91.

B. D.P.U. 20-58

The Department appreciates the Working Group's efforts to achieve consensus recommendations on implementation and cost-recovery. The Department encourages agreements, stipulations, and settlements that can narrow issues or resolve matters as a means by which a company can satisfy its obligation to provide safe, reliable, least-cost utility service to ratepayers. NSTAR Gas Company, D.P.U. 19-120, at n.17 (October 20, 2020) (Department approval of stipulations); Liberty Utilities Acquisition Blackstone Gas Company, D.P.U. 20-03, at 16 (October 13, 2020) (Department encourages settlements); Integrated Resource Planning, D.P.U. 94-162, at 18 (1995) (Department encourages settlements). Consistent with the principles outlined above, the Department has reviewed the consensus provisions of the Ratemaking Proposal and we find them reasonable and consistent with the public interest. In particular, the Department gives strong reliance on the agreement among the Working Group, and we take into consideration the exigent circumstances of the pandemic that supports our examination of some regulatory action outside of standard conventions. We find that

implementation of these provisions is consistent with the orderly advancement of D.P.U. 20-91. Therefore, with the exception of the consensus POR proposals discussed below, the Department conditionally approves the consensus provisions of the Ratemaking Proposal subject to the Distribution Companies' making a compliance filing in docket D.P.U. 20-58 for final Department approval. With this conditional approval, the Department makes no findings regarding the contested provisions of the Ratemaking Proposal; specifically, our conditional approval may not in any way be construed as a ruling on the ratemaking treatment to be accorded any costs associated with the financial impacts of COVID-19 on the Distribution Companies as set forth in the contested provisions of the Ratemaking Proposal. In making the compliance filing, the Distribution Companies shall confer with the Working Group and the filing shall comprise just the consensus provisions, as modified below, without the need to identify contested provisions. The Department finds that requiring a standalone filing is appropriate to make clear the Department's content approval. The Department directs the Distribution Companies to make such compliance filing no later than January 22, 2021.

The compliance filing shall not include the consensus agreement regarding the treatment of POR. The Department recognizes that the Working Group reached consensus regarding the Distribution Companies' proposal to address their net cash deficit created by the payment lags of competitive supply customers by revising the timing of when Distribution Companies make payments to competitive suppliers for POR. Notwithstanding the consensus achieved, the Department finds that competitive suppliers are not Working Group members and, therefore, have not had an opportunity to review and comment on the Distribution Companies' proposal. The Department finds that it is appropriate to provide competitive suppliers with the opportunity

to comment before approving any proposal that would result in revision to the timing of payments. Within seven business days of the date of this Order, the assigned hearing officer will take necessary steps to provide competitive suppliers the opportunity to comment on the POR provision of the Ratemaking Proposal. Based on the comments received, the Department will rule on the Distribution Companies' proposed payment proposal.

For the contested provisions of the Ratemaking Proposal, the Department finds it appropriate to exercise our regulatory authority to open a new investigation to examine these matters through an adjudicatory process, which we docket as D.P.U. 20-91. As described further below, through docket D.P.U. 20-91, the Department also will examine alternative customer payment methods with the possibility to provide greater flexibility to customers.

As discussed above, the Department encourages agreements, stipulations, and settlements that can narrow issues or resolve contested matters. Accordingly, the Department urges the Working Group to continue to seek to reach consensus positions on the outstanding contested issues, with consideration of existing Department precedent for cash working capital, bad debt, and exogenous cost for performance based ratemaking plans, and submit any additional consensus positions as part of the compliance filing. In addition, to enable this process the Department will allow each Company to record, defer, and track the incremental cost areas outlined in the Ratemaking Proposal, subject to the Department's final determination of the ratemaking treatment in D.P.U. 20-58 and D.P.U. 20-91. In light of the exigent circumstances of the pandemic and the Department-mandated moratorium, as well as the consensus agreement to defer certain costs, the Department finds it appropriate to deviate from our standard application of deferral precedent in this case. Colonial Gas Company, D.P.U. 89-70, at 5-8 (1990)

(Department approved company's deferral of costs for remediation of coal gasification sites where costs would be incurred over many years and the level of costs otherwise would cause the company to file a rate case).

Regarding the Attorney General's proposals relating to lost revenues, cost mitigation, and data collection, the Department observes that the Distribution Companies substantially agree with these proposals (Ratemaking Proposal at 9-11; Distribution Companies Supplemental Comments at 1-13). The Department finds that the Attorney General's proposals are reasonable, and we adopt them for implementation consistent with the following directives.

- Lost Revenues – each Distribution Company shall track usage patterns and sales numbers for residential and C&I customers so that the Department can determine whether additional action may be appropriate regarding each Distribution Company's RDM. On a quarterly basis, the Distribution Companies shall update the Working Group with this data.
- Cost Mitigation – each Distribution Company shall evaluate opportunities for reductions in costs, including by (1) analyzing capital and O&M costs currently recovered through reconciling mechanisms or PBR mechanisms to determine what projects can be put on hold and (2) seeking government grants, loans, credits, payments, or other subsidies, including CARES Act¹⁷ or similar benefits, to offset increased costs. In any filing for recovery of COVID-19 related costs, a Distribution Company must demonstrate its cost mitigation efforts.

Further, the Department finds that, through her data collection proposal, the Attorney General has identified a useful data strategy that can properly inform ratemaking and customer assistance policy regarding the effects of the COVID-19 pandemic. Therefore, the Attorney General's data requests set forth in her data collection proposal are incorporated into this Order for purposes of

¹⁷ “The Coronavirus Aid, Relief, and Economic Security Act,” Public Law 116–136.

the following directives (Ratemaking Proposal at 9-11). Where feasible, consistent with each Distribution Company's information system capabilities, current resources, and corporate policies, each Distribution Company shall provide to the Working Group on a monthly basis the data identified by the Attorney General. Where a Distribution Company determines that specific data is not feasible to produce or is appropriately subject to privacy concerns, the Distribution Company shall confer with the Attorney General and take reasonable efforts to identify alternative or substitute data.

C. D.P.U. 20-91

1. Examination

As stated above, the Department will adjudicate the contested cost-recovery issues identified in the Ratemaking Proposal and the alternative customer bill payment options consistent with our ratemaking and public interest authority and consistent with the demands of due process (i.e., opportunity to intervene, file discovery, put on witnesses, examine witnesses, and file briefs). In particular, based on the record evidence, the Department will determine whether there are COVID-19 related costs eligible for recovery by the Distribution Companies and, if eligible, the level of costs that are properly recoverable by the Distribution Companies. The adjudicatory process will provide the opportunity for filing testimony, issuing discovery, examination of witnesses at evidentiary hearings, and briefing. To facilitate the orderly advancement of D.P.U. 20-91, the Department directs the Distribution Companies to file, no later than March 1, 2021, testimony and supporting documentations with regards to any proposals in the Ratemaking Proposal that do not have consensus among the Working Group.

Further, the Department will determine whether authorizing Distribution Companies to offer customer alternative bill payment options is consistent with the public interest. As

explained above, in D.P.U. 19-71, the Department commenced an investigation of alternative bill payment options for customers, including a fee-free credit/debit payment option. Customer bill pay preferences are evolving and NSTAR Electric has represented that a growing customer base prefers using credit/debit payment options. D.P.U. 18-50/D.P.U. 19-71 at 4. The Department also recognizes that the impacts of the on-going pandemic likely have affected the customer bill pay preferences. Businesses and residential customers may be seeking more flexible payment options to adapt to the adverse economic impacts of COVID-19. The intent of the Department's investigation in D.P.U. 20-91 is to address the financial impacts of COVID-19 on utility service. The Department finds that it is appropriate to examine not only whether and how COVID-19 related incremental costs and waived fees may be recovered, but also whether to provide customers with feasible bill payment options that could provide more flexibility and mitigate late payments and arrearages, and address cash flow issues for the Distribution Companies. As noted above, waived fees by Distribution Companies includes payment transaction and credit card fees. As part of our investigation in D.P.U. 20-91, the Department directs the Distribution Companies to review the comments and stakeholder input to date in D.P.U. 19-71, and to file joint or individual proposals to enhance and optimize bill paying options for customers.¹⁸

¹⁸ The Department moves into D.P.U. 20-91 the following documents from docket D.P.U. 19-71:

1. Attorney General Comments, July 26, 2019;
2. Distribution Companies Joint Comments, July 26, 2019;
3. Comments of Low-Income Energy Affordability Network and Massachusetts Energy Directors Association, July 26, 2019;
4. Distribution Companies Response to Hearing Officer Memorandum, August 14, 2019;
5. Distribution Companies Status Update, September 20, 2019;
6. Distribution Companies Status Update, October 10, 2019; and

2. Process

The Department invites all interested persons to participate in the investigation in D.P.U. 20-91. As provided in the attached Notice of Investigation and Request for Comments (“Notice”),¹⁹ interested persons have the opportunity to file comments and to petition to intervene or participate as a limited participant.

In the interests of administrative efficiency, the following entities are made parties to D.P.U. 20-91 without the need to file a separate petition to intervene:

- each Distribution Company;
- the Attorney General;
- DOER;
- NCLC;
- LEAN;
- AIM; and
- the Massachusetts Energy Directors Association²⁰

Within 5 business days of the date of this Order, legal counsel for each of these designated parties shall file a Notice of Appearance of Counsel.²¹

Further, the following filings under D.P.U. 20-58 are hereby incorporated as filings in D.P.U. 20-91:

- Ratemaking Proposal (August 5, 2020);

7. Distribution Companies Status Update, November 26, 2019.

¹⁹ Included as Attachment A is a Notice of Investigation and Request for Comments in the instant docket.

²⁰ The Department establishes the Distribution Companies as petitioners and the Attorney General, DOER, NCLC, LEAN, AIM, and the Massachusetts Energy Directors Association as interveners in the instant docket.

²¹ For purposes of the Notice, the Department has identified counsel for the Distribution Companies in D.P.U. 20-58 to receive copies of petitions and comments. D.P.U. 20-58-A at 12 (Appendix A).

- Supplemental Comments of the Distribution Companies (August 12, 2020); and
- Supplemental Comments of the Attorney General (August 12, 2020).

Promptly after the Department's receipt of petitions to intervene as provided in the Notice in Attachment A, the hearing officer assigned to docket D.P.U. 20-91 shall schedule and hold a procedural conference with the primary intent to establish a procedural schedule for this investigation.

3. Service of Notice

Each Distribution Company shall serve a copy of the attached Notice of Investigation and Request for Comments no later than January 6, 2021 on the service lists in their respective most recent base distribution cases as follows: Boston Gas Company, D.P.U. 20-120 (2020); NSTAR Gas Company, D.P.U. 19-120 (2019); Fitchburg Gas and Electric Light Company, D.P.U. 19-130 (2019); Massachusetts Electric Company/Nantucket Electric Company, D.P.U. 18-150 (2018); The Berkshire Gas Company, D.P.U. 18-40 (2018); NSTAR Electric Company/Western Massachusetts Electric Company, D.P.U. 17-05 (2017); Liberty Utilities (New England Gas Company) Corp., D.P.U. 15-75 (2015); Bay State Gas Company, D.P.U. 15-50 (2015). Each Distribution Company may make service by electronic distribution. Finally, each Distribution Company shall prominently display the Notice on its website from three business days following receipt of the notice from the Department through the end of the comment period. Each Distribution Company must make return of service by the close of the comment period.

Further, within seven days of the date of this Order, the Secretary of the Department shall publish the attached Notice in a newspaper of statewide circulation. Also, within seven days of the date of this Order, the Secretary of the Department shall serve a copy of this Order on the

service lists in D.P.U. 19-71 and D.P.U. 20-58. The Secretary may make service by electronic distribution. The Department finds that the means and timing of service set forth herein are reasonable and consistent with the public interest.

V. ORDER

Accordingly, the Department

VOTES: To open an investigation, consistent with the findings and directives herein, into (1) the ratemaking proposal filed by the jurisdictional electric and gas distribution companies on August 5, 2020 as part of the Customer Assistance and Ratemaking Working Group established by the Department in D.P.U. 20-58 to address the treatment of costs related to the financial impacts of the COVID-19 pandemic and (2) alternative bill payment options for customers; and it is

ORDERED: That the jurisdictional electric and gas distribution companies shall file with the Department the agreed-upon provisions of the ratemaking proposal consistent with the directives contained herein; and it is

FURTHER ORDERED: That each jurisdictional electric and gas distribution company shall comply with all other directives contained in this Order; and it is

FURTHER ORDERED: That the Secretary of the Department shall serve a copy of this Order consistent with the directives herein; and it is

FURTHER ORDERED: That the Secretary of the Department shall publish notice of this investigation as provided herein.

By Order of the Department,

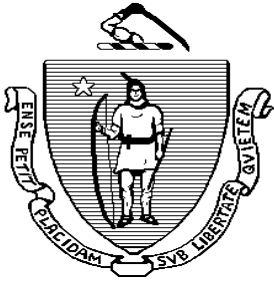
/s/
Matthew H. Nelson, Chair

/s/
Robert E. Hayden, Commissioner

/s/
Cecile M. Fraser, Commissioner

ATTACHMENT A

NOTICE OF INVESTIGATION AND REQUEST FOR COMMENTS



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

NOTICE OF INVESTIGATION AND REQUEST FOR COMMENTS

D.P.U. 20-91

December 31, 2020

Investigation by the Department of Public Utilities into (1) the Ratemaking Proposal of the Electric and Gas Companies Subject to the Department's Jurisdiction for the Treatment of Costs Related to the Financial Impacts of the State of Emergency Declared Regarding the Novel Coronavirus (COVID-19) Pandemic and (2) Alternative Bill Payment Options for Customers.

On August 5, 2020, the jurisdictional electric and gas distribution companies ("Distribution Companies") filed with the Department of Public Utilities ("Department") a ratemaking proposal identifying measures for the recovery of costs related to the financial impacts of the state of emergency declared regarding the novel coronavirus ("COVID-19") pandemic ("Ratemaking Proposal"). The Distribution Companies developed the Ratemaking Proposal in consultation with the Customer Assistance and Ratemaking Working Group ("Working Group") established in D.P.U. 20-58. The Ratemaking Proposal identifies areas of consensus and opposition among Working Group members.

The Department will investigate the contested cost recovery provisions of the Ratemaking Proposal to determine whether they result in just and reasonable rates for customers and whether they are consistent with the public interest. The Department will also consider proposals to expand alternative customer bill payment options, including a fee-free credit/debit card option, which is a matter that the Department most recently addressed in NSTAR Electric Company, D.P.U. 18-50 (2019) and Customer Bill Payment Alternatives for Gas and Electric Distribution Companies, D.P.U. 19-71, at 9 (2019). The Department has docketed this new investigation as D.P.U. 20-91.

The Department invites all interested persons to participate in this investigation. Any person who desires to participate in the evidentiary phase of this proceeding must file a written petition for leave to intervene or to participate in the proceeding no later than the close of business (5:00 p.m.) on **Friday, January 29, 2021**. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 CMR 1.01(4). To be allowed, a petition under 220 CMR 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10.

The Department will accept written comments on the Ratemaking Proposal. Any person who desires to comment may submit written comments no later than the close of business (5:00 p.m.) on **Wednesday, February 3, 2021**. At this time, all filings will be submitted only in electronic format in recognition of the difficulty that parties and the Department may have filing

and receiving original copies. On March 10, 2020, Governor Baker issued a state of emergency related to COVID-19 for the entire Commonwealth. Ordinarily, all parties would follow Sections B.1 and B.4 of the Department's Standard Ground Rules (D.P.U. 15-184-A, App. 1 (March 4, 2020)); however, until further notice, parties must retain the original paper version and the Department will later determine when the paper version must be filed with the Department Secretary. Importantly, all large files submitted must be broken down into electronic files that do not exceed 20 MB.

All documents submitted to the Department pursuant to this Notice must be submitted in **pdf format** by e-mail attachment to dpu.efiling@mass.gov and rachel.cottle@mass.gov. The text of the e-mail must specify: (1) the docket number of the proceeding (D.P.U. 20-91); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. All documents submitted in electronic format will be posted on the Department's website as soon as practicable at <http://www.mass.gov/dpu>. Importantly, all large files submitted must be broken down into electronic files that do not exceed 20 MB. A copy of any documents submitted to the Department also should be emailed to the Distribution Companies' counsel Cheryl Kimball, Esq. at ckimball@keeganwerlin.com and John K. Habib, Esq. jhabib@keeganwerlin.com.

Due to the ongoing state of emergency, a paper copy of filings will not be available for public viewing at the Department's offices. All documents, pleadings, and filings submitted to the Department or issued by the Department related to this proceeding will be available on the Department's website: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber> (enter "20-91"). To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities contact Department's ADA coordinator at DPUADACoordinator@state.ma.us. Please direct any questions regarding this proceeding to Rachel Cottle, Hearing Officer, Department of Public Utilities at Rachel.Cottle@mass.gov. Any person desiring further information regarding the Distribution Companies' Ratemaking Proposal should contact Cheryl Kimball, Esq. at ckimball@keeganwerlin.com or John K. Habib, Esq. jhabib@keeganwerlin.com.