

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Public Utilities)
On its Own Motion into Initiatives to Improve the) **D.P.U. 14-140**
Retail Electric Competitive Supply Market)

COMMENTS OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION

Executive Summary:

The National Energy Marketers Association (NEM)¹ hereby submits its comments in support of the Department’s proposal to eliminate the bill recalculation requirement for residential and small commercial and industrial customers. These comments are submitted pursuant to the Department’s December 11, 2014, Notice of Investigation and Request for Comments. In addition to supporting the Department’s proposal to eliminate the bill recalculation requirement for residential and small C&I customers, NEM recommends that the bill recalculation requirement be eliminated for medium and large C&I customers as the rationale supporting its assessment is antiquated and contrary to robust operation of a competitive retail market. Indeed, the bill recalculation requirement as applied to any customer is anti-competitive and penalizes consumers for exercising the statutory right conferred upon them over a decade ago to shop in the retail marketplace for products offering superior value as determined by each individual consumer, be it lower price, price stability, or value-added products and services.

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

Comments:

The Department opened this proceeding into initiatives to improve the retail electric competitive supply market in view of the convergence of a number of factors, including the introduction of utility POR programs and utility basic service pricing, which are expected to increase supplier participation and consumer participation in the retail electric market. NEM supports the Department's efforts to enhance the competitiveness of the retail marketplace. The proposal being considered in the instant case, to eliminate the bill recalculation requirement, is an important corollary measure to implement to improve the consumer shopping experience as it will remove an insidious barrier to switching - a penalty assessment for shopping.

The utility basic service pricing construct has been implemented and in place for many years. Under this construct, residential and small C&I customers are defaulted on to a fixed price option. The medium and large C&I customers are defaulted on to a variable rate. Fixed price customers that leave basic service have their bills "recalculated" at the variable rate for the purported purpose of avoiding "gaming." In this investigation, the Department has proposed to eliminate the bill recalculation requirement for residential and small C&I customers only. The Department also indicated that it would establish a tracker to examine the cost impact of eliminating the bill recalculation requirement.

The Department proposes to eliminate the bill recalculation requirement for residential and small commercial customers because it is, "concerned that this practice could result in customer confusion and dissatisfaction because customers may perceive the bill recalculation charge, appearing on their electric bills, to be a penalty for leaving basic service and switching to a

competitive supplier.”² NEM strongly agrees with this assessment. NEM submits that the Department’s rationale supports the elimination of the bill recalculation requirement for all customers. Imposing a bill recalculation requirement, particularly at the beginning of a consumer’s shopping experience, has allowed a hidden charge to be associated with exercising the right to choose a competitive supplier. This shopping penalty is anti-competitive and creates a misconception on the part of consumers about the relative value and savings associated with the choice they have made.

Moreover, NEM submits that the entire notion of consumer “gaming” is antiquated and antithetical to a consumer marketplace. For example, the Department opines that retaining the bill recalculation requirement for medium and large C&I customers is appropriate because it, “ensures that the decision to change their basic service pricing option is not motivated by the desire to game the system by taking inappropriate advantage of price differentials between fixed basic service rates and prices available in the competitive market.”³ NEM submits that this rationale is contrary to basic competitive market principles. The legislature has conferred a statutory right upon consumers to shop for the best energy value. An individual consumer’s perceived “best value” may mean the lowest priced product, or perhaps the product that offers long-term price stability or perhaps includes a value-added product or service. Whatever an individual consumer’s perceived “best value” may be, it does not constitute “gaming” for a consumer to actively seek a lower priced product when it is in their best economic interest to do so. That is simply economically rational behavior that should be allowed, in fact encouraged, in a competitive marketplace. Artificial regulatory constructs that penalize consumers from acting

² D.P.U. 14-140, Vote and Order Opening Investigation, issued on December 11, 2014, at page 11.

³ D.P.U. 14-140, Vote and Order Opening Investigation, issued on December 11, 2014, at page 10.

in an economically rational manner should be eliminated. Additionally, as the Department noted, it is highly unlikely that residential and small C&I customers would be engaging in behavior that would constitute “gaming.” And, since medium and large C&I customers are defaulted on to a variable rate, this behavior is disincented for these customers as well.

Conclusion

NEM appreciates the opportunity to offer its comments in support of the elimination of the bill recalculation requirement for residential and small C&I customers. NEM additionally recommends elimination of the bill recalculation requirement for medium and large C&I customers. We look forward to future participation in this process.

Respectfully submitted,

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