



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 09-46

June 15, 2009

Investigation by the Department of Public Utilities regarding terms and conditions pursuant to Sections 60 and 98 of the Green Communities Act, Chapter 169 of the Acts of 2008.

VOTE AND ORDER OPENING INVESTIGATION

I. INTRODUCTION

On July 2, 2008, the Legislature enacted, and Governor Deval Patrick signed into law, Chapter 169 of the Acts of 2008, an Act Relative to Green Communities (“Green Communities Act”). Section 60 of this Act (“Section 60”) amends G.L. c. 164, § 1D¹ in relevant part by adding the following two paragraphs:

Residential or small commercial customers: (a) initiating new utility service;
(b) reinstating service following a change of residence or business location;

¹ G.L. c. 164, § 1D provides:

Beginning January 1, 1998, all electric and gas bills sent to a retail customer shall be unbundled to separately reflect the rates charged for generation, transmission, and distribution services, as well as any other charges, as added pursuant to any provision of law, contained in the total retail price. Any transition charge, if so allowed to be assessed, shall be reflected separately on bills as of March 1, 1998. Electric and gas bills may reflect the total costs of services, without breakdown for type of service, in addition to, but not instead of, separately itemized rates for generation, transmission, and distribution services and transition charges as of March 1, 1998. Not later than six months after said March 1, in order to promote customer choice and convenience in a restructured electricity and gas market, distribution companies shall create and send bills to retail customers pursuant to either of the following billing options: (1) single bill from the distribution company that shows such charges; or (2) two bills: one from the non-utility supplier that shows energy-related charges, and one from the distribution company that shows distribution-related charges; provided, however, that all bills shall contain information concerning the quantity of gas or electricity consumed by said customer during the same billing period for the previous year. Costs for such inserts shall be apportioned accordingly between the parties. The department is hereby authorized and directed to determine whether any additional information shall be required to be disclosed on the bills and to promulgate rules and regulations to implement the provisions of this subsection. Rules and regulations relative to the appeals process for billing disputes or damage claims made by customers shall be published and distributed to customers as part of an education and outreach program. (Added by 1997, 164, Sec. 193 eff. 11-25-97.)

(c) making an inquiry regarding their rates; or (d) seeking information regarding energy efficiency shall be offered the option to learn about their ability to enroll with a participating non-utility competitive supplier of energy. Customers expressing an interest in learning about their electric supply options shall be informed of offers available by participating non-utility competitive suppliers. The electric distribution company shall describe then available offers available through a method approved by the department.

Participating non-utility competitive suppliers of energy may list qualifying electric offers to provide electric generation service to residential and small commercial customers in each customer's utility bill. The [D]epartment [of Public Utilities] shall determine the manner such information is presented in customers' utility bills.

Section 98 of the Green Communities Act ("Section 98") directs the Department of Public Utilities ("Department"), on or before September 1, 2009, to establish terms and conditions under which a participating non-utility competitive supplier may be included in this program. The Department has docketed this matter as D.P.U. 09-46.

The purpose of this investigation is to develop model terms and conditions governing the relationship between distribution companies and competitive suppliers regarding the specific issues delineated below. The Department believes that an investigation to establish these model terms and conditions will (1) allow a single forum for addressing terms and conditions that would govern the issues at hand, (2) provide companies and others with an effective vehicle for presenting consensus proposals, (3) minimize inconsistencies that may arise in individual company adjudications of terms and conditions, and (4) ensure that customers in Massachusetts benefit from terms and conditions that are, to the maximum extent possible, similar across distribution companies.

II. DEPARTMENT REGULATIONS AND PRECEDENT

In its Rules Governing the Restructuring of the Electric Industry, 220 C.M.R. § 11.00 et seq., the Department enacted regulations establishing a framework for how distribution companies, competitive suppliers, and electricity brokers will participate in a restructured electric industry in Massachusetts. Among other things, these regulations dictate general requirements for electric distribution companies, competitive suppliers, and electricity brokers, and address billing and payment, information disclosure, and complaint resolution and penalties. In addition to these regulations, the Department established two sets of terms and conditions: one addressing the relationship between electric distribution companies and their customers; and the other addressing the relationship between electric distribution companies and competitive suppliers. Terms and Conditions, D.P.U./D.T.E. 97-65 (1997). The competitive supplier terms and conditions govern the relationship between electric distribution companies and competitive suppliers for such matters as meter reading, billing, reporting estimated and meter loads to ISO New England, Inc., processing electronic business transactions, and reporting customers' historic usage data. Each electric distribution company has adopted these terms and conditions by making the appropriate compliance filings. The following are the currently effective competitive supplier terms and conditions for each electric distribution company: Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, M.D.T.E. No. 1063; Boston Edison Company, Commonwealth Electric Company, and Cambridge Electric Light Company d/b/a NSTAR Electric Company, M.D.T.E. Nos. 101A, 201A, 301A; Western Massachusetts Electric Company,

M.D.T.E. No. 1024C; and Fitchburg Gas and Electric Light Company d/b/a Unitil,

M.D.T.E. No. 90.

III. SOLICITATION OF COMMENTS AND PROPOSED TERMS AND CONDITIONS

Consistent with the above, the Department will review how distribution companies should inform customers about their options regarding non-utility competitive supply.

Accordingly, the Department votes to open this investigation pursuant to Sections 60 and 98 of the Green Communities Act and the Department's general supervisory authority under G.L. c. 164, § 76. The Department requests that the distribution companies provide proposed revisions to their competitive supplier terms and conditions addressing any changes required pursuant to the directive in Section 60 of the Green Communities Act, but focusing on the following:

1. How to offer residential and small commercial customers the option to learn more about their ability to enroll with a participating non-utility competitive supplier upon the occurrence of one of the four specified events;
2. How to inform interested customers of the available offers; and
3. How "qualifying electric offers" should be listed in utility bills.

The Department encourages the electric distribution companies to work together on a collaborative basis, and to file their proposal with the Department no later than **5:00 p.m. on Monday, July 6, 2009**. The Department will hold a stakeholder technical session at **2:00 p.m. on Monday, July 13, 2009**, to discuss the proposed terms and conditions. Any persons wishing to comment on the proposed terms and conditions should file such comments no later than **5:00 p.m. on Monday, July 20, 2009**.

All written documents should be filed with Mary L. Cottrell, Secretary, Department of Public Utilities, One South Station, 2nd Floor, Boston, Massachusetts 02110. All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@state.ma.us and laurie.e.weisman@state.ma.us; or (2) on CD-ROM. The text of the e-mail or CD-ROM label must specify: (1) the docket number of the proceeding (D.P.U. 09-46); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. The Department strongly encourages filers to avoid submitting scanned files but will accept them for posting when an alternative version does not exist in electronic format. All documents submitted in electronic format will be posted on the Department's website: <http://www.mass.gov/dpu>.

IV. ORDER

Accordingly, the Department

VOTES: To open an investigation into model terms and conditions pursuant to Sections 60 and 98 of the Green Communities Act; and it is

ORDERED: That the electric distribution companies shall submit for the Department's review no later than July 6, 2009, proposed terms and conditions consistent with the directives in this Order; and it is

FURTHER ORDERED: That the Secretary of the Department shall publish notice of this investigation in a statewide paper of daily circulation within the Commonwealth; and it is

FURTHER ORDERED: That the Secretary of the Department shall serve a copy of this Order upon all persons on the Department's official service list.

By Order of the Department,

/s/

Paul J. Hibbard, Chairman

/s/

Tim Woolf, Commissioner

/s/

Jolette A. Westbrook, Commissioner