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March 5, 2020

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

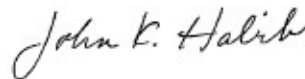
Re: Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market – D.P.U. 19-07

Dear Mr. Marini:

Enclosed on behalf of NSTAR Electric Company d/b/a Eversource Energy, Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, and Fitchburg Gas & Electric Light Company d/b/a Unitil (together the “EDCs” or the “Companies”) are the Companies joint initial comments on Tier One issues in the above-captioned matter.

Thank you for your attention to this matter. Please contact me should you have any questions.

Sincerely,



John K. Habib



Brendan P. Vaughan

Enclosures

cc: Gregory Wade, Esq., Hearing Officer
Elizabeth Anderson, Esq. – Office of the Attorney General
Meabh Purcell, Esq. – National Grid
Carleton B. Simpson, Esq. - Unitil

with Tier One addressing initiatives that can be resolved in the timeliest manner; Tier Two addressing initiatives that require more information before the Department can determine how best to proceed; and Tier Three initiatives requiring fundamental changes to the way in which the retail competitive markets currently operate, and thus requiring significantly more discussion (see June 6, 2019 PowerPoint presentation, slides 3-4). Following several working group meetings with certain stakeholders, on February 5, 2020, the Hearing Officer issued a Memorandum (the Feb. 5 Memorandum) requesting comments on certain Tier One initiatives by Thursday March 5, 2020. As outlined below, the EDCs appreciate the Department's efforts in developing the Tier One initiatives and responding to feedback provided throughout its investigation into these matters. The EDCs comments on Tier One Initiatives are provided below.

II. RESPONSES TO SPECIFIC TIER ONE INITIATIVES

1. License Application Review

A. New License Applications

The Department's proposal for new competitive supplier licensing provides that "stakeholders would have the opportunity to submit comments on [a new] application within 15 business days after an application" is posted on the Department's website. Feb. 5 Memorandum at 4-5. The Department would then review comments submitted by stakeholders and could request additional information from the applicant based on said comments, followed by an additional ten-business day comment period by interested stakeholders. Stakeholders would be responsible for monitoring the Department's website to identify pending new license applications. Feb. 5 Memorandum at 5.

The EDCs appreciate the Department's thorough review of the application process, and its attempts to make the competitive supplier licensure process more transparent by providing an opportunity for stakeholder input into the licensing process. With some minor modifications, this process can be refined to become even more effective. Specifically, the EDCs recommend adjusting the licensure process so that stakeholders will be notified of new license applications when applications are posted on the Department's website. Much like the public notice requirements of Department proceedings, notifying stakeholders of a pending license application will ensure that all interested stakeholders are aware of new license applications, and that the Department will receive timely and relevant feedback prior to making a decision on license applications. If stakeholders are not notified proactively by the Department of new license applications, the Department will run the risk that it will not receive important feedback on pending applications. Further, there are logistical issues with determining the number of business days between when an item is posted on a website and when comments are due. Notifying stakeholders, which can be accomplished by a simple list-serve e-mail notification to persons requesting such notification, is an administratively efficient method of ensuring that the Department receives feedback on license applications. With this small change, the EDCs support the Department's proposal on New License Applications, as outlined in the Feb. 5 Memorandum.

B. License Renewals

In contrast to the proposal for new license applications, the Department's proposal for license renewals does not provide for valuable stakeholder input. See Feb. 5 Memorandum at 5. The Feb. 5 Memorandum states that the Department "sees no value in making information regarding license renewals available on the Department's website" and then cites to an additional

process for Competitive Suppliers that fail to submit their license renewal in a timely manner. Feb. 5 Memorandum at 5. As outlined below, the EDCs disagree with the Department's approach and contend that there is, in fact, significant value and benefit to posting license renewal applications online. The EDCs position is that it is worthwhile to provide stakeholders with the opportunity to provide comments on license renewal applications, similar to the modified approach proposed for new license applications discussed above, as this information may impact the Department's decision to approve a renewal application. Allowing interested stakeholders to comment and provide relevant information to the Department on license renewals will ensure that the Department is aware of any issues associated with competitive suppliers that have arisen since the supplier's license application was initially filed with the Department. Absent a comment process and opportunity for stakeholder input, it is unclear how the Department will obtain pertinent information that could inform its decision to renew licenses of certain competitive suppliers.

2. Marketing Related Activities

A. Notification of Door-to-Door Marketing

The Department proposes that competitive suppliers be required to submit a separate door-to-door marketing notification for each day that they expect to conduct marketing, no later than two business days prior to the applicable marketing day. Feb. 5 Memorandum at 7. The Department would require competitive suppliers to: (1) identify the municipalities or neighborhoods where they may be marketing on the applicable day; and (2) for each municipality or neighborhood, indicate whether (i) the supplier, as of the notification filing date, has applied for and obtained all required permits; (ii) the supplier, as of the filing notification date, has not obtained the required permits, but will do so and will have the required permits in its possession as of the marketing date; or (iii) no permit is required. Feb. 5 Memorandum at 7.

Competitive suppliers will provide the required information to the Department in a working Excel spreadsheet. Feb. 5 Memorandum at 7. The Department's proposal calls for this information to be provided to the Attorney General on a confidential basis, and seeks input on whether it should be provided "to other entities" on a confidential basis. Feb. 5 Memorandum at 7.

The EDCs fully support the Department's initiatives to further improve the consumer protections related to door-to-door marketing notifications. The EDCs contend that the availability of marketing notification information, *i.e.*, lists of marketers actively marketing within a specific service area, to additional stakeholders, including the EDCs, would be useful in addressing customer complaints regarding door-to-door marketing activities. As explained throughout this proceeding, the Companies often receive complaints or calls from customers regarding competitive supplier marketing practices and aggressive door-to-door marketing conduct. The Companies have little recourse for follow up action, however, as the Companies cannot be certain which supplier or marketing contractor was responsible for the deceptive or questionable practices, and which supplier was marketing in a given area on a given day. If provided with the supplier door-to-door marketing notification form, on a confidential basis, the EDCs will be able to determine which competitive suppliers may be involved when customers call with complaints.

Further, the Department requested input on which municipalities should be broken down into specific neighborhoods. The EDCs concur with the Department's breakdown for the City of Boston specifically, and suggest further neighborhood breakdowns for the following municipalities: (1) Worcester, (2) Newton, (3) Cambridge, and (4) Springfield. The Companies believe that these municipalities are of a sufficient size and population as to merit an additional

breakdown. The EDCs proposed breakdown of these municipalities is provided as Attachment A to these comments. Additionally, the EDCs recommend adding a requirement that competitive suppliers disclose the specific zip codes for the municipalities where they plan to conduct door-to-door marketing activities. Including the specific zip codes for municipalities where door-to-door marketing will take place is consistent with the Department's goals of identifying competitive suppliers that market door-to-door in a specific location if a customer or local authority contacts the Department with a complaint by providing an additional level of specificity to the Department and other interested parties, such as the EDCs. Feb. 5 Memorandum at 5-6.

B. Identification of Third-Party Marketing Vendors

The Department proposes to require competitive suppliers to provide the Department, on an ongoing basis, with updated lists of their third-party door-to-door and telemarketing vendors. Such lists would include information related to background checks and standards of conduct that competitive suppliers currently provide through their door-to-door notifications. Feb. 5 Memorandum at 9. Similar to the proposal discussed above, the Department proposes that competitive suppliers provide this information to the Attorney General on a confidential basis and seeks input on whether competitive suppliers should provide this information to other stakeholders on a confidential basis. Feb. 5 Memorandum at 9.

To better promote door-to-door marketing transparency, the EDCs contend that it would be beneficial for competitive suppliers to provide lists of their third-party door-to-door and telemarketing vendors on a confidential basis to the EDCs. While the EDCs may not necessarily need standards of conduct and background check information, having insight into which marketers are being used in conjunction with the door-to-door marketing notification information

previously discussed will allow the EDCs to gain valuable insight into which marketing vendors can be specifically tied to customer complaints received by the Companies. Without this information, the Companies will have insufficient data and information about the specific entities that may be engaging in deceptive marketing to the Companies' customers, and cannot provide adequate feedback on these issues to the Department. If the EDCs receive, on a confidential basis, information on which marketing vendors are being used by which competitive suppliers, and receive, on a confidential basis, information on the location of daily door-to-door marketing activities, the EDCs can provide meaningful and holistic information to the Department should any issues arise with the EDCs' customers. Further, if the competitive supplier were to provide these lists annually as part of their license renewal applications, the EDCs believe other stakeholders should be given the opportunity to comment on a competitive supplier's use of specific vendors as part of the license renewal process.

C. Disclosure of Product Information

The Department included a proposed template to be used to standardize disclosure of product information to consumers. Feb. 5 Memorandum at 10-11. Under the proposal, the Department would require competitive suppliers to use the template and language for all products, with certain exceptions.¹ Feb. 5 Memorandum at 10-11. The Department proposes to require competitive suppliers to provide the proposed template to customers at the point of sale.

¹ The Department included exceptions for (1) for products for which the price varies on a monthly basis, competitive suppliers should use language in the price and term sections that describe the applicable price structure and term of the product; (2) for products for which the renewable content exceeds the minimum requirement, competitive suppliers may use language that describes the renewable resources that comprise the "voluntary" component of the product; (3) for products that include fees other than an early cancellation fee or enrollment fee, competitive suppliers should include language that describes such fees; and (4) for products that include additional incentives or "value-added" products and services, competitive suppliers should include language that describes such incentives. Feb. 5 Memorandum at 10-11. In these instances, competitive suppliers would be required to submit their contract summary forms for Department review. Feb. 5 Memorandum at 10-11. The Department would respond to the competitive supplier with revisions within ten business days. Feb. 5 Memorandum at 10-11. If the Department does not respond within ten business days, the competitive supplier would be able to proceed with using the form. Feb. 5 Memorandum at 10-11.

Feb. 5 Memorandum at 11. For those sales that take place in person or online, competitive suppliers would provide a written version of the template as the first page of the contract. Feb. 5 Memorandum at 11. For sales that take place over the telephone, competitive suppliers would provide the information orally, followed by a paper version as the first page of the contract sent by direct mail. Feb. 5 Memorandum at 11.

The EDCs support the use of the Department's proposed template for all transactions, and support the Department's proposal to review and approve a non-standard contract summary form in certain specific instances. Use of standardized forms will provide, in a clear and concise manner, important information to customers about what they are purchasing and agreeing to, and will increase transparency in the competitive supply field, by ensuring that all customers have easy access to this information. The EDCs suggest requiring the standardized form document to be transmitted in hard copy and electronically to new customers, which will help ensure that such an important document is quickly accessible by customers and help protect against the likelihood that the document could be lost or misplaced by a customer.

D. Door-to-Door Marketing Scripts

The Department proposes to adopt the scripts for door to door and telemarketing activities, with the caveat that at no time during door-to-door and telemarketing interactions shall the marketing agent identify the name of a customer's distribution company - for telemarketing, this applies equally to both the "live" interactions and the recordings that may precede such interactions. Feb. 5 Memorandum at 11-12. Further, the Department requires that all door-to-door and telemarketing activities shall be conducted in a language that the customer can understand; otherwise, the marketing vendor would be required to terminate contact with the customer. Feb. 5 Memorandum at 11-12.

The EDCs fully support the Department’s proposal in relation to door-to-door and telemarketing scripts that require the Competitive Supplier or its marketing vendor to (1) identify the name of the vendor and the competitive supplier that the vendor represents; and (2) state that the competitive supplier is not affiliated with either the customer’s electric company or any energy program that the customer’s municipality may offer, and agree that uniform marketing scripts, and the disclosure of product information requirements are important customer protection initiatives that help ensure that customers are provided useful information regarding both the marketers/competitive suppliers that are offering them products and the products that are being offered.

E. Recording of Marketing Interactions

The Department proposes that competitive suppliers be required to record telemarketing calls, as they do for their third-party verification calls. The Department stated that it sees no reason why the recording of marketing calls would be more unreasonable or more burdensome than the recording of third-party verification calls. Feb. 5 Memorandum at 12-13. The Department does not propose to require competitive suppliers to record their door-to-door marketing interactions. Feb. 5 Memorandum at 13.

The EDCs recognize the need to ensure that marketing vendors provide customers with accurate and useful information, and fully support the Department’s proposed requirement to record telemarketing calls.² The EDCs recommend that the Department promulgate clear guidelines as to how long these recordings must be kept, and that these recordings must be produced to the Department upon request. Clear record keeping and production guidelines will

² Such a requirement is even more important in light of the Department’s February 28, 2020 Notice to Massachusetts Competitive Electric Suppliers regarding a deceptive telemarketing campaign going on in the Commonwealth, where an residential electricity customers are being contacted by an unidentified competitive supplier or marketer with a pre-recorded message “that sates that , as a customer of the specified [EDC] (*i.e.*, Eversource National Grid, Unitil), the consumer is eligible to receive a 30 percent discount” on their electric bill.

help ensure that such recordings can be used by the Department in compliance matters and will provide the EDCs customers with enhanced protection against potentially abusive and fraudulent marketing tactics.

F. Marketing Materials

The Department proposes requiring competitive suppliers to submit updated versions of their direct mail marketing materials (including the envelope) for Department review prior to deploying the marketing materials. Feb. 5 Memorandum at 14. Under the Department's proposal, materials should: (1) display the competitive supplier name and logo at the top of the document (thus clearly identifying the competitive supplier as the sender); (2) clearly state that the competitive supplier is not affiliated with the customer's utility; (3) clearly communicate that the notice is an advertisement for the sale of a product; (4) disclose pertinent information about the product(s) being marketed; and (5) not use false or misleading headers or subject lines, such as "action requested" or "urgent notification about your utility bill/account." Feb. 5 Memorandum at 14.

The EDCs support the Department's proposal to review and approve Competitive Suppliers' direct mail marketing materials, including the clear requirement that Competitive Suppliers not be able to use "false or misleading headers or subject lines, such as 'action requested' or 'urgent notification about your utility bill/account.'" The EDCs further suggest that the Department clarify its position on Competitive Supplier claims that a customer's current electric service is "dirty," or other adjectives designed to suggest that the suppliers' service offerings are cleaner. Absent a full discussion of the Renewable Portfolio Standards included in basic service, and a disclosure about where the Competitive Supplier is sourcing its supply, and whether those sources meet the Massachusetts renewable portfolio standards, it could be

considered deceptive or misleading to send Massachusetts residents notices that employ pejorative and unfounded descriptions.

3. Automatic Renewal

A. Customer Notification

The Department proposes to require competitive suppliers to provide customers with automatic renewal notifications between 30 and 60 days prior to the expiration of contracts that have such provisions. Feb. 5 Memorandum at 15. The Department would require all competitive suppliers to use its proposed language in the upper portion of their notifications, while being allowed to use the lower portion of the notifications to present competitive supplier-specific branding, language, and style. Feb. 5 Memorandum at 15.

The EDCs fully support the Department's proposal to require notification between 30 and 60 days prior to the expiration of contracts that have automatic renewal provisions. The Department's Attachment 3 from the Feb. 5 Memorandum strikes an appropriate balance between notifying customers and allowing competitive suppliers to use their specific language in the bottom portion of the notification. The EDCs request that such a notification be sent by both mail and e-mail to those customers where e-mail is available. As with Attachment 2 to the Feb. 5 Memorandum, requiring service by both mail and e-mail will help ensure that customers receive, and review, the notification and is consistent with the Department's stated preference at the technical sessions in this docket for customers to be served not through automatic renewal provisions, but through active contracts where the customer engages with the competitive supplier and demonstrates their affirmative decision to continue to be served by a competitive supplier.

B. Competitive Supplier Reports

The Department proposes to require that competitive suppliers report periodically on the number of residential customers they serve through automatic renewal provisions that are included in the customers' contracts. Feb. 5 Memorandum at 16. Each competitive supplier would report both on the number of customers that were automatically renewed during the specified period, as well as the total number customers that the competitive supplier was serving through an automatic renewal provision on the last day of the specified period. Feb. 5 Memorandum at 16. Competitive suppliers would also report on the method of delivery of the notification during the specified period. Feb. 5 Memorandum at 16. The Department proposes that competitive suppliers initially report this information on a quarterly basis, with the expectation that the Department would revisit the frequency of such reporting at a later date. Feb. 5 Memorandum at 16.

The EDCs support the Department's proposed process for Competitive Suppliers to report to the Department on the number of customers they serve through automatic renewal provisions. As stated in Section 3.A, this reporting requirement is consistent with the Department's stated preference that customers be served not through automatic renewal provisions, but through active contracts where the customer engages with the competitive supplier and demonstrates their affirmative decision to continue to be served by the supplier.

4. Competitive Supplier Enrollment Process

The Department proposes to require competitive suppliers to report periodically on the total number of residential customers and the number of low-income customers they enrolled during the specified period through: (1) door-to-door marketing; (2) telemarketing; and (3) other marketing channels. Feb. 5 Memorandum at 17. In addition, competitive suppliers would report on the total number of residential and low-income customers they are serving as of the last day

of the specified period. Feb. 5 Memorandum at 17. The Department proposes that this reporting follow a template, and that they be broken down by EDC. Feb. 5 Memorandum at 17. The Department requests that this information be provided on a quarterly basis, with the expectation that we would revisit the frequency of such reporting at a later date. Feb. 5 Memorandum at 17.

The EDCs agree with and support the Department's proposal requiring reporting by Competitive Suppliers on the number of residential customers and the number of low-income customers they enrolled during the specified period through: (1) door-to-door marketing; (2) telemarketing; and (3) other marketing channels. The proposed reporting requirements would allow the Department to adopt a more proactive approach to their investigations of competitive suppliers' marketing activities and will provide the Department with necessary insight into the Competitive Suppliers marketing activities that they do not currently possess. As an oversight authority for Competitive Suppliers, this information is critically important for the Department.

5. Energy Switch Website

The Department proposes that, with certain exceptions,³ the Energy Switch Website display information on municipal aggregation products in the same manner that it displays information on other competitive supply products. Feb. 5 Memorandum at 17-18. Therefore, the Department proposes: (1) the listing of municipal aggregation products would be voluntary; (2) the municipality would input information about its products and would be responsible for ensuring the accuracy of that information; (3) the Website would only display municipal

³ The Department's proposed exceptions to the rules that govern the operations of the Website are related to: (1) the order in which the Website lists municipal aggregation products; (2) contract terms; and (3) renewable energy content. Specifically, the Department proposes that the Energy Switch Website "always list a municipal aggregation product directly below basic service", that the contract term display the start and end dates of the aggregation's supply contract for a given municipality, and that the Energy Switch Website display information about the products' voluntary renewable energy content if the voluntary renewable energy resources: (1) are composed entirely of RPS Class I resources, and (2) represent at least five percent of the product's total resources. Feb. 5 Memorandum at 18-19.

aggregation products to those customers for whom the products are available (based on the zip code information provided by Website users and the municipal aggregators); and (4) the Website would display the name and logo of the municipal aggregator. Feb. 5 Memorandum at 17-18.

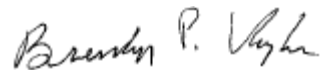
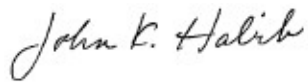
The EDCs fully support the Department's proposal in relation to the Energy Switch Website, including the display of information regarding municipal aggregation products and the exceptions noted above. These changes will help ensure that customers in municipalities operating municipal aggregation programs receive fulsome information on their service options, including basic service.

III. CONCLUSION

The EDCs appreciate the opportunity to submit these comments on the Department's proposed Tier One Initiatives in this matter and looks forward to reviewing the comments of other interested stakeholders and continued participation in the remaining phases of this investigation.

**NSTAR ELECTRIC COMPANY d/b/a
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By its attorneys,



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Respectfully submitted by,

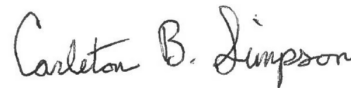
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Dated: March 5, 2020

Attachment A – Proposed Neighborhoods

Worcester

- Tatnuck Area/Airport Hill
- Columbus Park
- Grafton Hill
- Belmont Hill
- Burncoat Area
- Vernon Hill
- Central Business District
- Salisbury Heights
- South Worcester

Cambridge

- Cambridge
- East Cambridge

Newton

- Newton Centre
- Newtonville
- Newton Corner
- Newton Highlands
- Newton Upper Falls
- Newton Lower Falls
- West Newton
- Chestnut Hill
- Waban
- Auburndale
- Oak Hill
- Nonantum
- Thompsonville

Springfield

- Atwater Park
- Bay
- Boston Road
- Brightwood
- East Forest Park
- East Springfield
- Forest Park
- Indian Orchard
- Liberty Heights
- McKnight Historic District
- Memorial Square
- Metro Center
- North End
- Old Hill
- Pine Point
- Six Corners
- Sixteen Acres
- South End
- Upper Hill