



THE COMMONWEALTH OF MASSACHUSETTS  
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April 16, 2020

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

**Re: D.P.U. 19-GSEP-01 through D.P.U. 19-GSEP-06**

Dear Secretary Marini:

On April 1, 2020, the Office of the Attorney General (“AGO”) filed a motion (“AGO’s Motion”) asking the Department to “delay for at least three months implementation of any requested increase to the gas customer surcharges related to the increased funding of Gas System Enhancement Programs (“GSEPs”).” *See* AGO Motion, at 1 (April 1, 2020). On April 8, 2020, the local distribution companies (“LDCs”) filed a joint opposition (“LDC Opposition”) to the AGO’s Motion. The AGO submits this letter as a necessary Reply to the LDCs’ Opposition in order to correct the LDCs’ mischaracterization of the AGO’s request.<sup>1</sup>

Specifically, the LDCs mistakenly interpret the AGO’s Motion as asking the Department to suspend or delay implementation of the GSEAFs.<sup>2</sup> To be clear, the AGO’s Motion asks the Department to defer implementing any GSEAF *increases*, *i.e.*, incremental increases, for at least three months to help customers during this difficult time.<sup>3</sup> Under the AGO’s proposal there will be no suspension of the GSEAFs and the LDCs will continue to recover from the GSEAF. Indeed,

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<sup>1</sup> This Reply does not respond to every argument made or position taken by the LDCs. Rather, these remarks are intended to respond only to the extent necessary to assist the Department in its deliberations. Silence by the AGO with respect to any issue addressed by the LDCs’ Opposition should not be construed as assent to their positions.

<sup>2</sup> *See, e.g.*, LDC Opposition, at 3 (“ . . . the Department should delay the implementation of the GSEAFs for ‘at least’ three months until the pandemic is contained and the Commonwealth returns to normal business and economic activities.”); *id.*, at 4 (“Section 145 does not authorize the Department to refrain from putting the GSEAFs in place on May 1, 2020.”); *id.*, at 5 (“Section 145 does not, as argued by the Attorney General, give the Department the authority to suspend or otherwise refuse to institute the May 1, 2020 effective date of the GSEAFs.”); *id.*, at 6 (“The Attorney General seeks to expand the Department’s statutory authority under Section 145 to allow for the suspension of the GSEAFs . . .”).

<sup>3</sup> AGO Motion, at 1–2; *see also id.*, at 7 (“The AGO urges the Department to immediately suspend for at least three months the effective date of any approved *increases* to the GSEP surcharges.”) (emphasis added).

consistent with the statute, the LDCs will “*begin recovery* of the estimated costs of the projects included in the plan on May 1 [2020].” G.L. c. 164 sec. 145 (e) (emphasis added). That is all the statute requires. Under the AGO’s proposal, the LDCs simply will recover a larger amount of the project costs in the later months of the project year than they do in the beginning months of the project year and/or recover any shortfalls through their Gas System Enhancement Program Reconciliation filings.<sup>4</sup> Nothing in the statute precludes the Department from exercising its discretion on behalf of the public to specify the rate of recovery within a project year. This is not surprising given that the statute’s reconciling component ensures that regardless of the rate of recovery during the project year, the LDCs will be made whole.

While the AGO appreciates the steps that the LDCs indicate that they have taken to mitigate impacts on customers including, but not limited to, suspending disconnection of services for non-payment, eliminating late payment charges for all customers, and offering longer-term flexible payment arrangements to customers, the severity and unprecedented nature of the impact that the COVID-19 crisis has had and will continue to have on the Commonwealth cannot be understated. *Id.*, at 3. Indeed, in the week after the AGO filed its motion, the Commonwealth’s number of unemployment claims rose by another 140,000 to a total of nearly 470,000 claims in approximately three weeks. *Coronavirus Impact: Massachusetts Saw Nearly 140,000 Jobless Claims Last Week* <https://boston.cbslocal.com/2020/04/09/coronavirus-unemployment-massachusetts-jobless-claims/> (April 9, 2020). Governor Baker noted that these numbers were staggering as compared to the normal 7,000 to 10,000 monthly increase the Commonwealth would typically see over the past six- or seven-month period. *Id.* Similarly, just because customers may have the opportunity to receive relief in other aspects of their lives, *e.g.*, mortgage and rent relief, does not mean that Department cannot or should not provide customers with a temporary relief from increased GSEAF charges. *See* LDC Opposition, at 8–9.

The request to delay for at least three months GSEAF increases while allowing the LDCs to recover their current GSEAFs strikes the appropriate balance between customer and LDC interests and is a solution that the Department has the discretion to craft and implement in an equitable manner for all customers.

Sincerely,

*/s/ Ashley Gagnon*

Ashley Gagnon  
Elizabeth Mahony  
Assistant Attorneys General

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<sup>4</sup> As noted in the AGO’s Motion, this should be no hardship to the LDCs because, given the pandemic, the LDCs are unlikely to incur GSEP costs in the early months of the project year because they are unlikely to do GSEP-related work.

Encl.

cc: Sarah Smegal, Hearing Officer  
Alice Davey, Hearing Officer  
Carol Piper, Hearing Officer  
Service Lists

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES**

**2019 Gas System Enhancement Plan  
Filings**

**D.P.U. 19-GSEP-01—D.P.U. 19-GSEP-06**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused the foregoing document to be served upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. 1.05(1) (Department's Rules of Practice and Procedure). Dated at Boston this 16<sup>th</sup> day of April, 2020.

*/s/ Ashley Gagnon*  
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