



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-58

May 11, 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.

ORDER OPENING INQUIRY AND ESTABLISHING WORKING GROUP

I. NOTICE

Pursuant to its superintendence authority under G.L. c. 164, § 76, the Department of Public Utilities (“Department”) opens this inquiry into establishing policies and practices regarding customer assistance and ratemaking measures for electric and gas companies in response to the effects of the novel coronavirus (“COVID-19”) pandemic.¹ The Department also establishes a Customer Assistance and Ratemaking Working Group (“Working Group”), as comprised below, to assist the Department in establishing appropriate policies and practices.

II. BACKGROUND

On March 10, 2020, Governor Baker declared a state of emergency in Massachusetts related to COVID-19. Subsequently, on March 24, 2020, Governor Baker granted the Chairman of the Department authority pursuant to G.L. c. 25, § 4B to take such action as the Chairman considers necessary to assure public safety and welfare through the priority restoration or continuing availability of gas, electric, and water utility services.

That 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

¹ This inquiry pertains to electric and gas companies subject to the jurisdiction of the Department under G.L. c. 164 (“Electric and Gas Companies”) because of the relative similarity of billing and service operations of such companies. The inquiry does not currently apply to water companies subject to the Department’s jurisdiction because of the wide range among water companies of billing and service operations. The results of this inquiry will inform the Department concerning policies and practices for water companies.

Department, whichever comes first (“Shut-Off Moratorium”). Chairman's First Set of Orders Under G.L. c. 25, § 4B (March 24, 2020) (copy on file with the Department).

The Department recognizes that the COVID-19 pandemic has caused not only a public health emergency, but significant economic disruption. Both the public health crisis and the economic disruption have been referred to as “unprecedented.” The public health crisis of COVID-19 has been compared to the 1918 influenza pandemic.² The current economic crisis, referred to as the “Great Lockdown” by the International Monetary Fund, has been compared to the global financial crisis of 2008-2009.³

Massachusetts residents face unprecedented unemployment, lost income, lost health insurance coverage, and the likelihood that the payment of household expenses including rent, mortgage, and utility service bills will be delayed or may go unpaid. 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. Given these adverse economic factors, the Department must consider (1) the need⁴ to assist utility customers and (2) the need for ratemaking measures to address the effects of this

² In the 1918 influenza pandemic, an estimated 500 million people were infected globally (1/3 of the global population) with an estimated 50 million deaths, with 675,000 occurring in the in the U.S. <https://www.cdc.gov/flu/pandemic-resources/1918-commemoration/1918-pandemic-history.htm>

³ <https://atlanticcouncil.org/blogs/new-atlanticist/can-we-compare-the-covid-19-and-2008-crises/>

⁴ The broad mission of the Department is to regulate in the public interest. 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 (the function of the Department is the protection of the public interest).

pandemic.⁵ Accordingly, the Department commences this proceeding to investigate appropriate policies and practices regarding customer assistance and ratemaking for electric and gas companies resulting from the COVID-19 pandemic.

III. CUSTOMER ASSISTANCE AND RATEMAKING WORKING GROUP

A. Establishment of Customer Assistance and Ratemaking Working Group

In response to a letter issued by the Department's Consumer Division on April 17, 2020, the Department received comments⁶ with specific focus on six questions presented by the Consumer Division regarding such matters as customer service termination practices, customer bill payment plans, and ratemaking issues. Letter of Acting Consumer Division Director Joseph Truschelli (March 31, 2020) (copy on file with the Department). Among other things, the Distribution Companies recommend that the Department form a working group to develop

⁵ The Department is charged with ensuring that any rates are just and reasonable. See 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).

⁶ The Department received comments from the Attorney General of the Commonwealth of Massachusetts ("Attorney General"); the Department of Energy Resources ("DOER"); Blackstone Gas Company ("Blackstone Gas"); Clean Water Action ("CWA"); the Low-Income Energy Affordability Network ("LEAN"); and joint comments from Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil"), Bay State Gas Company d/b/a Columbia Gas of Massachusetts ("Columbia Gas"), Boston Gas Company ("Boston Gas") and the former Colonial Gas Company ("Colonial") d/b/a National Grid (together, "National Grid"), Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities ("Liberty"), NSTAR Electric Company ("NSTAR Electric") and NSTAR Gas Company ("NSTAR Gas") each d/b/a Eversource Energy (together, "Eversource Energy"), The Berkshire Gas Company ("Berkshire"), and Aquarion Water Company of Massachusetts ("Aquarion") (collectively, "Distribution Companies").

recommendations regarding customer assistance and utility ratemaking in response to the economic turmoil caused by the COVID-19 public health emergency (Distribution Companies Comments at 20-22).

The Department periodically uses collaborative initiatives and working groups to reach a consensus among stakeholders that are affected by a particular issue. Distributed Generation Working Group, D.P.U. 11-75-A at 4-5 (2012); Energy Efficiency Guidelines, D.P.U. 08-50-A at 5 (2009); Standards for Arrearage Management Programs, D.T.E. 05-86, at 15 (2006); Gas Unbundling Collaborative, D.T.E. 98-32-B (1999); Street Restoration Standards, D.T.E. 98-22, at 2 & n.3 (1999); Electric Industry Restructuring, D.P.U. 95-30, at 46-47 (1995). The Department agrees with the Distribution Companies that a working group is an appropriate means to investigate and help resolve issues associated with establishing policies and practices relating to customer assistance and ratemaking measures in response to the COVID-19 pandemic. Consistent with the recommendation of the Distribution Companies, the Department convenes the Working Group, comprised of interested parties, as further described below.

B. Participants in Customer Assistance and Rate Planning Working Group

The Department invites the interested parties set forth in Appendix A to participate in the Working Group.^{7,8}

⁷ At this time, the purpose of the Working Group is to develop policies and practices for electric and gas companies, not water companies. Accordingly, the Department has not included Aquarion or CWA, each of which submitted comments that are informative.

⁸ Appendix A includes the email addresses of representative members of the Working Group. The Department requests that the members contact Rachel Cottle, Hearing Officer, at Rachel.Cottle@mass.gov, with full contact information for each of that member's representatives.

C. Scope of Customer Assistance and Ratemaking Working Group

The purpose of the Working Group is to provide the Department with consensus recommendations for policies and practices that enhance customer assistance and implement flexible ratemaking treatment in response to the effects of the COVID-19 pandemic. The Working Group should divide its activity into two projects. The first project and the Department's priority is customer assistance. The second project is providing appropriate financial support for the utilities to implement the customer assistance and maintain utilities' financial integrity. The Department directs the Working Group to (1) immediately develop recommendations for customer assistance policies and practices and (2) in response to the customer assistance policies, develop recommendations for ratemaking measures.

As set forth below, the Department provides direction to the Working Group for the customer assistance project. The Department also requests that the Distribution Companies provide the Working Group a ratemaking proposal, as explained in more detail below, based on the proposed customer assistance project and the financial condition of the Distribution Companies as a direct result of the COVID-19 pandemic. The Department recognizes the challenge for the utilities to provide safe, reliable, and continual service in the face of added workforce challenges and costs for enhanced public health and safety measures, supply chain disruptions and added costs, and declines in revenues and demand. These factors adversely affect cash flow, resulting in additional short-term borrowings in an uncertain financial market. The resulting financial position of the utilities would not be representative of a normal test year.

The need to determine the appropriate ratemaking treatment for COVID-19 associated expenditures and to address cash flow issues that Electric and Gas Companies will likely face as

a result of the pandemic is apparent. However, when implementing policies and practices to assist customers in the immediate term, we must serve a dual purpose of mitigating further negative impacts on utility operations and helping the affected customers. Accordingly, the Department will now discuss the scope of the first project. Governor Baker declared the March 10, 2020 state of emergency in Massachusetts in response to a public health crisis that has caused substantial infection and fatalities. The COVID-19 pandemic is confronting every level of the United States economy with unprecedented challenges.⁹ While the federal government undertook a substantial economic response to the COVID-19 pandemic,¹⁰ the Department implemented its March 24, 2020 Shut-Off Moratorium as a limited economic response to alleviate the effect of the state of emergency on utility customers who are unable to pay their bills for utility services. The Department does not necessarily find it appropriate to permanently

⁹ Over the five-week period from mid-March to late-April 2020, more than 30 million Americans filed for unemployment insurance, raising the prospect of a deep economic recession and a significant increase in the unemployment rate. Unemployment Insurance Weekly Claims, U.S. Department of Labor, April 30, 2020 (<https://www.dol.gov/>). Preliminary data for the first quarter of 2020 indicates that the U.S. gross domestic product (“GDP”) fell 4.8 percent at an annual rate, the largest quarterly decline in GDP since the fourth quarter of 2008 during the global financial crisis when the U.S. economy contracted 8.4 percent (Gross Domestic Product, First Quarter 2020 (Advance Estimate), Bureau of Economic Analysis, April 29, 2020. <https://www.bea.gov/data/gdr/gross-domestic-product>).

¹⁰ For example, the “Coronavirus, Aid, Relief, and Economic Security Act” (“CARES Act”) is a \$2 trillion stimulus bill that, among other things provides many Americans with a \$1,200 payment, adds \$600/week to unemployment benefits for four months, provides hospitals and health care providers with \$10 billion in increased Medicare reimbursement when treating coronavirus. P.L. 116-136, March 27, 2020. Also, the “Paycheck Protection Program and health Care Enhancement Act” provides \$484 billion for small business loans, health care providers, and COVID-19 testing. P.L. 116-139, April 24, 2020.

annex lifting the Shut-Off Moratorium to the date that Governor Baker lifts the state of emergency, particularly where economic recovery may require expanded measures even after the public health crisis curve has flattened.

Recognizing the substantial financial challenges facing customers, the Department recommends that the Working Group deliberate over several proposals with the goal of developing consensus recommendations. As both the COVID-19 public health crisis and the resulting economic crisis are unprecedented, we may need to consider unprecedented solutions. The proposals are discussed further below.

1. Potential Extended Payment Plans and Waiver of Late Fees

- Electric and Gas Companies extend payment plans for all customers for 18 months beyond the date that the Shut-Off Moratorium took effect on March 24, 2020.
- Electric and Gas Companies continue to waive late payment fees to small commercial and industrial (“C&I”) customers for a reasonable period following the date that Governor Baker lifts the state of emergency, such as for six months.
- Electric and Gas Companies waive late fees to any customers¹¹ on an acceptable payment plan.

2. Potential Extended Arrearage Management Plans

- Electric and Gas Companies enroll customers in arrearage management plans (“AMPs”) for up to 18 months.

¹¹ Electric and Gas Companies can charge a late payment fee to “non-residential” customers, that is, this provision applies primarily to C&I customers. 220 CMR 26.10.

- Electric and Gas Companies allow customers to re-apply for and re-enroll in AMPs within four months of missed payments under an AMP.
- Electric and Gas Companies increase the maximum amount of past-due balances that an Electric and Gas Company would forgive for consistent payment by customers on AMPs.
- Data Collection – As it may be difficult to identify customers who qualify for AMPs, Electric and Gas Companies submit data regarding customers entering into bill non-payment and describe the process of identifying qualifying customers for fuller analysis and discussion by the Working Group.

3. Potential Outreach to Customers

- Working Group establish a communication plan for customers following the state of emergency in Massachusetts.
- Establish a unified method for Electric and Gas Companies and stakeholders to communicate with customers regarding outstanding balances, payment plans, low-income rate programs, existing customer protections, and community resources. Messaging should include direction to motivate payment from customers who can pay.

4. Potential Continuation of the Shut-Off Moratorium

- With the annual winter moratorium¹² beginning in approximately six months, it may be appropriate to extend the Shut-Off Moratorium to prevent shut-offs before the winter heating season begins.

¹² The winter moratorium refers to the period between November 15 and March 15 during which Electric and Gas Companies may not shut off utility services to a household with a seriously ill individual, with a child under 12 months of age, with a person aged 65 or older and a minor in residence, that takes utility service for heating, or with a customer unable to pay his or her utility bill. See G.L. c. 164, § 124F; 220 CMR 25.03.

- Data Collection - Electric and Gas Companies submit data regarding non-payment to enable the Working Group to consider the feasibility of adjusting customer classes and reasons for non-payment based on areas and rate classes that are significantly impacted by the COVID-19 pandemic.

5. Activities of Other States

The Department seeks information from the Working Group about best practices and other successful customer assistance programs that have been implemented by other states that could be effectively implemented in Massachusetts. The Department also seeks information regarding implemented ratemaking support that has been put in place in other states as a response to COVID-19.

The Working Group should deliberate regarding the issues outlined above regarding customer assistance policies and practices with the goal of reaching a consensus for the Department's review and approval. Accordingly, the Working Group is directed to prepare its customer assistance report containing consensus recommendations and identifying any differences. The Department seeks the report of the Working Group no later than 5:00 p.m. on **Friday, May 29, 2020.**

D. Ratemaking Proposal

Consistent with our discussion above, the Department intends for the Working Group to consider ratemaking measures for the Distribution Companies associated with the customer assistance recommendations and the specific financial effects of the COVID-19 pandemic on the Distribution Companies. Therefore, within ten days following the submission of Working Group's customer assistance report, the Distribution Companies shall make a ratemaking proposal to the Working Group. In addition to proposing ratemaking measures, the Distribution

Companies shall identify data they believe is needed to calculate and assess the report of the Working Group.

In response to the Distribution Companies' proposal, the Working Group shall develop a consensus ratemaking proposal to support customer assistance initiatives and to maintain the financial integrity of the utilities in response to COVID-19. The Department is tasking the Working Group to develop a well-designed customer assistance program and we recognize that the utilities are critical to provide financial relief to those in need. Based on the Working Group's review, discussion, and deliberation of the Distribution Companies' ratemaking proposal, the Department seeks a report **within three weeks** of the Distribution Companies' submission of their proposal to the Working Group. Therefore, the development of a consensus financial proposal by the Working Group is needed to implement appropriate ratemaking mechanisms coincident with implementation of the customer initiatives in order to support customers in financial need. As with the customer assistance report, the Department seeks consensus recommendations with any differences identified.

IV. DOCUMENT SUBMISSION AND AVAILABILITY

All documents must be submitted to the Department in **pdf format** by email attachment to Peter.Ray@mass.gov and Rachel.Cottle@mass.gov. The text of the email must specify the following: (1) the docket number of the proceeding (D.P.U. 20-58); (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>. The submitting party must also retain a paper copy of the documents and file the paper copy when the Department requests its submission. To the

extent a person or entity wishes to submit comments in accordance with this Notice, electronic submission, as detailed above, is sufficient. To request materials in accessible formats (Braille, large print, electronic files, audio format) for people with disabilities, contact the Department's ADA coordinator at DPUADACoordinator@state.ma.us.

All documents and/or filings submitted to the Department and/or issued by the Department will be available on the Department's website as soon as is practicable at <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber> (insert "20-58"). A paper copy of such documents will not be available for public viewing at the Department due to the state of emergency. For further information regarding this notice, please contact Rachel Cottle, Hearing Officer, Department of Public Utilities, at Rachel.Cottle@mass.gov.

IV. ORDER

Accordingly, the Department

VOTES: To open an inquiry into establishing policies and practices for electric and gas companies regarding customer assistance and ratemaking in connection to the state of emergency relating to the COVID-19 pandemic; and it is

ORDERED: That each electric and gas company subject to the jurisdiction of the Department under G.L. c. 164 shall comply with the directives contained in this Order; and it is

APPENDIX A

CUSTOMER ASSISTANCE AND RATEMAKING WORKING GROUP

Electric Companies

Gas Companies

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