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July 2, 2020

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

Re: Joint Petition of Eversource Energy, Eversource Gas Company of Massachusetts, NiSource Inc. and Bay State Gas Company d/b/a Columbia Gas of Massachusetts for Approval of Purchase and Sale of Assets Pursuant to General Laws Chapter 164, §§ 94 and 96 - D.P.U. 20-59

Dear Mr. Marini:

Pursuant to G.L. c. 164, §§ 94 and 96, Eversource Energy (“Eversource”), Eversource Gas Company of Massachusetts (“EGMA”), NiSource Inc. (“NiSource”), and Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“Bay State Gas”) (together the “Joint Petitioners”) submit this petition to the Department of Public Utilities (the “Department”) for approval of NiSource’s sale of the business of Bay State Gas to Eversource and EGMA (the “Transaction”). Completion of the Transaction is subject to the terms and conditions set forth in the Asset Purchase Agreement (“APA”), executed by and among NiSource, Bay State Gas and Eversource on February 26, 2020.

On February 26, 2020, NiSource, Bay State Gas and Eversource executed the APA, setting the price, terms and conditions by which Eversource shall acquire the “Purchased Assets,” as defined in Section 2.1(a) of the APA. As stated in the APA, NiSource and Bay State Gas have agreed to sell, and Eversource has agreed to purchase, with certain additions and exceptions: (1) substantially all of the assets of Bay State Gas; and (2) all of the assets held by any affiliates of Bay State Gas that primarily relate to the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by Bay State Gas. Under the APA, Eversource will assume certain liabilities of Bay State Gas and its affiliates. However, subject to the terms and conditions of the APA, Eversource will not assume any liabilities related to the Greater Lawrence Incident, as defined in Section 2.1(c) of the APA. Prior to the closing of the Transaction, Eversource will assign its rights to acquire the Bay State Gas business under the APA to EGMA, as allowed and contemplated in the APA.

Upon the closing of the Transaction, Bay State Gas customers will become EGMA customers under the same rate schedules and terms of service as currently exist for Bay State Gas customers. EGMA is not seeking any changes to the rates charged to Bay State Gas customers that would take effect as of the date of Closing. The Joint Petitioners’ request for approval of the

Transaction includes a proposed Rate Stabilization Plan to be implemented to achieve net benefits, as required under the Department's public interest standard, encompassed within G.L. c. 164, § 96. The Rate Stabilization Plan requires the Department's review and approval under G.L. c. 164, § 94.

Bay State Gas customers will see economic and non-economic benefits from the proposed Transaction. Net benefits in the range of \$281 million or more will result for Bay State Gas customers in conformance with the Department's standard for approval of an asset sale. Over the long term, Eversource anticipates that the proposed Transaction will provide opportunities for operating cost efficiencies in certain operating areas, including the potential to manage gas portfolios on a combined basis to reduce gas supply costs and optimize gas resources. As EGMA customers, Bay State Gas customers will also benefit from Eversource's high performance standards and service quality. The acquisition will enable Eversource to leverage best practices of its gas distribution business across the Eversource platform. In addition, Bay State Gas customers will be served going forward by a larger local company with expertise in emergency management and emergency response, with a larger pool of resources to draw upon should exigent circumstances arise. Customers will also benefit because Eversource is committed to maintaining appropriate staffing levels that enable safe and reliable operations. Lastly, Eversource has one of the strongest financial profiles among U.S. distribution utilities with top-tier credit ratings that help to lower financing costs for customers.

Bay State Gas employees will benefit because under the terms of the APA, Eversource will offer employment to Bay State Gas employees who are employed in good standing at closing. Eversource's proximity to the Bay State Gas service territory and its familiarity with the operations of Bay State Gas will allow for seamless integration of these employees into the Eversource organization. As Eversource employees, these individuals will enjoy greater opportunities for training, career development, and professional advancement as compared to the status quo, both within and outside of the natural gas distribution business.

In support of the petition, the Joint Petitioners are providing the following direct testimony:

1. Testimony of William J. Akley and Penelope M. Conner: The joint testimony of William J. Akley, President of the Eversource Energy gas distribution business, and Penelope M. Conner, Chief Customer Officer and Senior Vice President of the Customer Group for Eversource Energy, is provided herewith as Exhibit JP-WJA/PMC-1. Mr. Akley and Ms. Conner's testimony describes the transition, Day One preparation and operational plan for EGMA to operate the Bay State Gas system and provide a seamless integration for the current Bay State Gas customers.
2. Testimony of Douglas P. Horton: The testimony of Douglas P. Horton, Vice President, Distribution Rates and Regulatory Requirements for Eversource Energy, is presented herewith as Exhibit JP-DPH-1. Mr. Horton's testimony describes Eversource's proposed acquisition of the Bay State Gas business and provides an

overall demonstration that the acquisition is consistent with the public interest under G.L. c. 164, § 96, including each of the factors that the Department considers in reviewing a utility asset sale and its impact on Massachusetts customers. Mr. Horton quantifies and presents the net benefits analysis associated with the Joint Petitioners' proposals for providing customer benefits and demonstrates that net benefits in the range of \$281 million or more will result for Bay State Gas customers in conformance with the Department's standard for approval of an asset sale. As part of the net benefits analysis, Mr. Horton presents EGMA's proposed, acquisition-related investment plan and discusses the requirements of the APA pertinent to that plan.

3. Testimony of Shawn Anderson: The direct testimony of Shawn Anderson, Senior Vice President, Chief Strategy and Risk Officer of NiSource is provided herewith as Exhibit JP-SA-1. Mr. Anderson describes the proposed Transaction from NiSource's perspective and discusses the reasons why NiSource has decided to sell its Massachusetts business to a local natural gas system operator. Mr. Anderson also provides an overview of the process undertaken by NiSource and Bay State Gas to accomplish the sale. Mr. Anderson discusses the reasons that NiSource endorses the net benefits analysis presented in the testimony of Eversource Witness Horton.

By law, the proposed Transaction is subject to the Department's approval under G.L. c. 164, § 96, with confirmation under G.L. c. 164, § 21, that Eversource will possess all of the franchise rights and obligations of Bay State Gas upon closing and that further action pursuant to G.L. c. 164, § 21 is not required to complete the proposed Transaction.

The Joint Petitioners are requesting that the Department approve the proposed Transaction under the terms and conditions contemplated by the APA no later than September 30, 2020. This date is necessary to allow for preparation and completion of the closing arrangements that would result in Eversource ownership no later than November 1, 2020, which is the start of the winter peak season.

The Company looks forward to working with the Department and other interested parties during the course of this proceeding. All correspondence relating to the filing should be addressed to:

Mark D. Marini, Secretary
D.P.U. 20-59
July 2, 2020
Page 4

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Kenneth W. Christman, Esq.
NiSource Corporate Services
Company
121 Champion Way
Canonsburg, Pennsylvania 15317
Phone: 724.416.6315

Thank you for your attention to this matter.

Sincerely,



Cheryl M. Kimball, Esq.

Enclosures

cc: Hon. Matthew Nelson, Chair (cover letter only)
Hon. Robert Hayden, Commissioner (cover letter only)
Hon. Cecile Fraser, Commissioner (cover letter only)
Shane Early, General Counsel
Sarah Spruce, Hearing Officer
George Yiankos, Director, Gas Division
Emily Luksha, Director, Rates and Revenue Requirements
Rebecca M. Tepper, Assistant Attorney General
Joseph W. Rogers, Assistant Attorney General
Rachel Evans, Department of Energy Resources
Jerrold Oppenheim, Low Income Weatherization and Fuel Assistance Program Network
D.P.U. 19-140 and D.P.U. 19-141 Service Lists

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

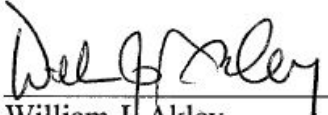
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Petition of Eversource Energy, NiSource Inc.,)	
Eversource Gas Company of Massachusetts,)	D.P.U. 20-59
and Bay State Gas Company d/b/a Columbia)	
Gas of Massachusetts for Approval of)	
Purchase and Sale of Assets Pursuant to)	
General Laws Chapter 164, §§ 94 and 96)	
_____)	

AFFIDAVIT OF WILLIAM J. AKLEY

William J. Akley does hereby depose and say as follows:

I, William J. Akley, certify that the attached direct testimony on behalf of Eversource Energy, which bears my name, was prepared by me or under my supervision and is true and accurate to the best of my knowledge and belief.

Signed under the pains and penalties of perjury as of this 2nd day of July, 2020.



William J. Akley
President, Gas Business
Eversource Energy

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Petition of Eversource Energy, NiSource Inc.,)
Eversource Gas Company of Massachusetts,) D.P.U. 20-59
and Bay State Gas Company d/b/a Columbia)
Gas of Massachusetts for Approval of)
Purchase and Sale of Assets Pursuant to)
General Laws Chapter 164, §§ 94 and 96)

AFFIDAVIT OF PENELOPE MCLEAN CONNER

Penelope McLean Conner, does hereby depose and say as follows:

I, Penelope McLean Conner, certify that the attached direct testimony on behalf of Eversource Energy, which bears my name, was prepared by me or under my supervision and is true and accurate to the best of my knowledge and belief.

Signed under the pains and penalties of perjury as of this 2nd day of July, 2020.



Penelope McLean Conner
Chief Customer Officer and Senior Vice President
Eversource Energy

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

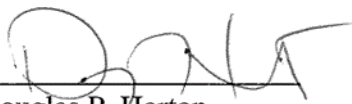
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Petition of Eversource Energy, NiSource Inc.,)
Eversource Gas Company of Massachusetts,) D.P.U. 20-59
and Bay State Gas Company d/b/a Columbia)
Gas of Massachusetts for Approval of)
Purchase and Sale of Assets Pursuant to)
General Laws Chapter 164, §§ 94 and 96)
_____)

AFFIDAVIT OF DOUGLAS P. HORTON

Douglas P. Horton does hereby depose and say as follows:

I, Douglas P. Horton, certify that the attached direct testimony and related exhibits on behalf of Eversource Energy, which bear my name, were prepared by me or under my supervision and are true and accurate to the best of my knowledge and belief.

Signed under the pains and penalties of perjury as of this 2nd day of July, 2020.



Douglas P. Horton
Vice President, Distribution Rates and Regulatory
Requirements
Eversource Energy

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES


Petition of Eversource Energy, NiSource Inc.)
and Bay State Gas Company d/b/a Columbia) D.P.U. 20-59
Gas of Massachusetts for Approval of)
Purchase and Sale of Assets Pursuant to)
General Laws Chapter 164, §§ 94 and 96)

AFFIDAVIT OF SHAWN ANDERSON

Shawn Anderson does hereby depose and say as follows:

I, Shawn Anderson, certify that the attached direct testimony and related exhibits on behalf of NiSource Inc. and Bay State Gas Company d/b/a Columbia Gas of Massachusetts, which bear my name, were prepared by me or under my supervision and are true and accurate to the best of my knowledge and belief.

Signed under the pains and penalties of perjury as of this 2nd day of July, 2020.



Shawn Anderson
Senior Vice President, Chief Strategy and Risk
Officer
NiSource Inc.

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

D.P.U. 20-59

ON BEHALF OF EVERSOURCE ENERGY

APPEARANCE OF COUNSEL

In the above referenced proceeding, the undersigned does hereby appear for and on behalf of Eversource Energy.

Respectfully Submitted,



Vincent P. Pace
Assistant General Counsel
Eversource Energy
P.O. Box 270
Hartford, CT 06141-0270
Tel: (860) 665-5426
MA. B.B.O. # 671386

Dated: July 2, 2020

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

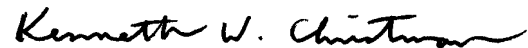
D.P.U. 20-59

**ON BEHALF OF NISOURCE INC. AND BAY STATE GAS COMPANY
D/B/A COLUMBIA GAS OF MASSACHUSETTS**

APPEARANCE OF COUNSEL

In the above referenced proceeding, the undersigned does hereby appear for and on behalf of NiSource Inc. and Bay State Gas Company d/b/a Columbia Gas of Massachusetts.

Respectfully Submitted,



Kenneth W. Christman, Esq.
NiSource Corporate Services Company
121 Champion Way
Canonsburg, Pennsylvania 15317
Phone: 724-416-6315

Dated: July 2, 2020

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

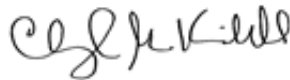
D.P.U. 20-59

ON BEHALF OF EVERSOURCE ENERGY

APPEARANCE OF COUNSEL

In the above referenced proceeding, we the undersigned hereby appear for and on behalf of Eversource Energy.

Respectfully Submitted,



Cheryl M. Kimball, Esq.
Danielle C. Winter, Esq.
Matthew C. Campbell, Esq.
Keegan Werlin LLP
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Tel: (617) 951-1400
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Dated: July 2, 2020

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Petition of Eversource Energy, NiSource Inc.,)	
Eversource Gas of Massachusetts, and Bay)	D.P.U. 20-59
State Gas Company d/b/a Columbia Gas of)	
Massachusetts for Approval of Purchase and)	
Sale of Assets Pursuant to General Laws)	
Chapter 164, § 94 and § 96)	

**JOINT PETITION OF EVERSOURCE ENERGY, NISOURCE INC.,
EVERSOURCE GAS COMPANY OF MASSACHUSETTS
AND BAY STATE GAS COMPANY FOR
APPROVAL OF PURCHASE AND SALE OF ASSETS**

Pursuant to G.L. c. 164, § 94 and § 96, Eversource Energy (“Eversource”), NiSource Inc. (“NiSource”), Eversource Gas Company of Massachusetts (“EGMA”), and Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“Bay State Gas”) (together the “Joint Petitioners”) submit this petition to the Department of Public Utilities (the “Department”) for approval of NiSource’s sale of the business operated by Bay State Gas to Eversource for a purchase price of \$1.100 million in cash, subject to certain post-closing adjustments (the “Transaction”). Completion of the Transaction is subject to the terms and conditions delineated in the Asset Purchase Agreement (“APA”), executed by and among NiSource, Bay State Gas and Eversource on February 26, 2020. A copy of the APA is submitted with the Joint Petitioners’ filing in the above-referenced proceeding as Exhibit JP-SA-2, as described herein.

By law, the proposed Transaction is subject to the Department’s approval under G.L. c. 164, § 96, with confirmation under G.L. c. 164, § 21, that Eversource will possess all of the franchise rights and obligations of Bay State Gas upon closing and that further action pursuant to

G.L. c. 164, § 21 is not required to complete the proposed Transaction. In addition, under the terms of the APA, Joint Petitioners shall have received the “MDPU Required Regulatory Approval” to enable the Transaction to go forward.”¹ For reasons identified herein, the Joint Petitioners are requesting that the Department approve the proposed Transaction under the terms and conditions contemplated by the APA no later than September 30, 2020. This date is necessary to allow for preparation and completion of the closing arrangements that would result in Eversource ownership no later than November 1, 2020, which is the start of the winter peak season.

In support of the Department’s approval of the proposed Transaction, the Joint Petitioners state the following:

1. Eversource is a voluntary association and Massachusetts business trust with dual headquarters in Boston, Massachusetts and Hartford, Connecticut. Eversource is a public utility holding company under the Public Utility Holding Company Act of 2005. Eversource is engaged primarily in the electric, natural gas and water distribution business through its wholly-owned utility subsidiaries, including: NSTAR Gas Company (“NSTAR Gas”), NSTAR Electric Company, The Connecticut Light and Power Company, Yankee Gas Services Company (“Yankee Gas”), Public Service Company of New Hampshire, and Eversource Aquarion Holdings, Inc. (a utility holding company that owns three, individual regulated water utility subsidiaries). Together, the Eversource companies serve approximately four million electric, natural gas and water customers in Connecticut, Massachusetts and New Hampshire.

¹ The “MDPU Required Regulatory Approval” is defined in the APA, at Section 7.3(a).

2. NiSource is an energy holding company under the Public Utility Holding Company Act of 2005, with subsidiaries operating as regulated natural gas and electric utility companies serving customers in seven states. NiSource serves approximately 3.5 million customers through its electric and natural gas distribution companies. Through its wholly owned subsidiary NiSource Gas Distribution Group, Inc., NiSource owns six operating subsidiaries that distribute natural gas to approximately 2.7 million residential, commercial and industrial customers in Ohio, Pennsylvania, Virginia, Kentucky, Maryland and Massachusetts. NiSource also distributes natural gas to approximately 839,000 customers in northern Indiana through its wholly owned subsidiary, NIPSCO. On the electric side, NiSource generates, transmits and distributes electricity through its NIPSCO subsidiary to approximately 476,000 customers in 20 counties in the northern part of Indiana.
3. Bay State Gas is one of the six natural gas distribution companies operated by NiSource. Bay State Gas currently operates as “Columbia Gas of Massachusetts,” serving approximately 330,000 natural gas customers in more than 60 communities in the greater Springfield area, southeastern Massachusetts and the Merrimack Valley. Bay State Gas is a Massachusetts natural gas local distribution company, pursuant to G.L. c. 164, § 1, with a principal office in Westborough, Massachusetts.
4. EGMA is a wholly owned subsidiary of Eversource incorporated in Massachusetts on May 15, 2020, pursuant to G.L. c. 164, § 1 to own and operate the business of Bay State

Gas. Prior to Closing, Eversource will assign its rights and responsibilities under the APA associated with the purchase of the business of Bay State Gas.²

5. On February 26, 2020, Eversource, NiSource and Bay State Gas executed the APA, setting the price, terms and conditions by which Eversource shall acquire the “Purchased Assets,” as defined in Section 2.1(a) of the APA. As stated in the APA, NiSource and Bay State Gas have agreed to sell to Eversource, and Eversource has agreed to purchase, with certain additions and exceptions: (1) substantially all of the assets of Bay State Gas; and (2) all of the assets held by any affiliates of Bay State Gas that primarily relate to the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by Bay State Gas (all of the assets to be sold to Eversource under the APA, designated as the “Purchased Assets”). As part of the agreement, Eversource will assume certain liabilities of Bay State Gas and its affiliates (the “Assumed Liabilities”). However, subject to the terms and conditions of the APA, Eversource will not assume any liabilities related to the Greater Lawrence Incident, as defined in Section 2.1(c) of the APA. The APA provides for a purchase price of \$1.100 million in cash, subject to adjustment based on net cash working capital of Bay State Gas, as of the Closing Date (APA at Section 3.1).
6. As stated in the APA, the proposed Transaction is subject to Massachusetts statutory approvals, resolution of certain proceedings before governmental bodies, and other prerequisites to Closing. Specifically, the proposed Transaction is subject to the

² The APA defines “Closing” as the closing of the sale and transfer of the business of Bay State Gas by NiSource and Bay State Gas to Eversource and EGMA (APA at Section 1.1). The date on which the Closing is actually held is referred to herein as the “Closing Date” (APA at Section 4.1).

Department's approval under G.L. c. 164, § 96, with confirmation under G.L. c. 164, § 21, that Eversource will possess all of the franchise rights and obligations of Bay State Gas upon Closing and that further action pursuant to G.L. c. 164, § 21 is not required to complete the proposed Transaction.

7. In addition, the Joint Petitioners' request for approval of the Transaction includes a proposed Rate Stabilization Plan that would be implemented to achieve net benefits, as required under the Department's public interest standard, encompassed within G.L. c. 164, § 96. The Rate Stabilization Plan requires the Department's review and approval under G.L. c. 164, § 96.
8. In addition to the requirements of Massachusetts law, the terms of the APA establish certain prerequisites for Closing that must be fulfilled for the proposed Transaction to be completed. Specifically, for the proposed Transaction to be completed following the issuance of the Department's final decision in this proceeding, the following Department actions and approvals must have occurred: (1) "*MDPU Approval*," which means the approval of the transactions contemplated by the APA, as required by the Department and any applicable rules and regulations promulgated by the Department (APA at Section 1.1); (2) "*MDPU Required Regulatory Approval*," which means MDPU Approval, including the Department's recognition that the applicable rate base for the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by Bay State Gas, for ratemaking purposes following Closing shall be the rate base as of Closing; and, that Eversource shall have the burden of showing prudence for any adjustments made to rate base after the Closing but not before Closing (APA at Section 7.3(a)); and (3) "*MDPU Required Resolution*," which means the final

resolution or termination of all pending actions, claims and investigations, lawsuits or other legal or administrative proceedings against Bay State Gas and its affiliates under the jurisdiction of the Department and all future actions, claims and investigations, lawsuits or other legal or administrative proceedings against Bay State Gas and its affiliates relating to the Greater Lawrence Incident under the jurisdiction of the Department, each as determined by NiSource in its reasonable discretion (APA at Section 10.1). In addition, there shall not have been any “*Material Adverse Effect*,” which among other things, means that there shall not have been any “*adverse effect*,” resulting from any action by a governmental body taken in connection with the MDPU Approval (APA at Section 1.1).

9. If approved by the Department, the business of Bay State Gas, once purchased, will be held by a new corporate entity formed by Eversource pursuant to G.L. c. 164, § 1, subject to the Department’s plenary jurisdiction under G.L. c. 164, referenced herein as “EGMA.” EGMA will be a wholly owned subsidiary of Yankee Energy System, Inc., which is a wholly owned subsidiary of Eversource. This organizational structure will align with the current corporate structure wherein NSTAR Gas and Yankee Gas are operating as wholly owned subsidiaries of Yankee Energy System, Inc. Prior to the Closing, Eversource will assign to EGMA the rights granted under the APA to acquire the Purchased Assets and assume the Assumed Liabilities of Bay State Gas, as permitted by the APA. On the terms and subject to the conditions set forth in the APA, at Closing, EGMA will take right, title and interest in, to and under the Purchased Assets and will assume and agree to pay, perform and discharge the Assumed Liabilities. EGMA will operate as “Columbia Gas of Massachusetts” for a period of up to one year following the Closing Date to allow time for Eversource to prepare for a transition in the naming

convention from “Columbia Gas of Massachusetts” to “Eversource Gas Company of Massachusetts.”

10. On the Closing Date, Bay State Gas customers will become Eversource customers under the same rate schedules and terms of service as currently exist for Bay State Gas customers. Eversource is not seeking any changes to the rates charged to Bay State Gas customers that would take effect as of the date of Closing. Any rate changes that would take place in the future applicable to customers of Bay State Gas as of the Closing Date would change only after the Department has conducted an adjudicatory proceeding under G.L. c. 164, § 94, consistent with the due process requirements of G.L. c. 30A.
11. Except to integrate Eversource Gas into the Eversource corporate organization, the Transaction will result in no changes to Eversource’s existing organizational structure. Also, subject to the terms and conditions of the APA, Eversource will assume no liabilities from the Greater Lawrence Incident (as defined in the APA), as these will be retained by NiSource.
12. In accordance with the terms of the APA, Eversource is required to offer employment to all Bay State Gas employees in good standing. For union employees covered by a collective bargaining agreement, the offers of employment are required to be on terms and conditions established by Eversource that include wages and benefits that are substantially comparable in the aggregate to those applicable to Eversource’s union employees in Massachusetts. For nonunion employees, Eversource is obligated to offer employment on terms and conditions, including wages and benefits, that are substantially comparable in the aggregate to similarly situated Eversource employees. Following

Closing, each transferring employee will be able to participate in Eversource's post-retirement employee health and welfare benefit plans.

13. The petition includes the following direct testimony:
 - a. Testimony of William J. Akley and Penelope M. Conner: The joint testimony of William J. Akley, President of the Eversource Energy gas distribution business, and Penelope M. Conner, Chief Customer Officer and Senior Vice President of the Customer Group for Eversource Energy, is provided herewith as Exhibit JP-WJA/PMC-1. Mr. Akley and Ms. Conner's testimony describes the Day One preparation and operational plan for Eversource to operate the Bay State Gas system and provide a seamless integration for the current Bay State Gas customers.
 - b. Testimony of Douglas P. Horton: The testimony of Douglas P. Horton, Vice President, Distribution Rates and Regulatory Requirements for Eversource Energy is presented herewith as Exhibit JP-DPH-1. Mr. Horton's testimony describes Eversource's proposed acquisition of the Bay State Gas business and provides an overall demonstration that the acquisition is consistent with the public interest under G.L. c. 164, § 96, including each of the factors that the Department considers in reviewing a utility asset sale and its impact on Massachusetts customers. Mr. Horton quantifies and presents the net benefits analysis associated with the Joint Petitioners' proposals for providing customer benefits and demonstrates that net benefits in the range of \$281 million or more will result for Bay State Gas customers in conformance with the Department's standard for approval of an asset sale. As part of the net benefits analysis, Mr. Horton presents

Eversource's proposed, acquisition-related investment plan and discusses the requirements of the APA pertinent to that plan.

- c. Testimony of Shawn Anderson: The direct testimony of Shawn Anderson, Senior Vice President, Chief Strategy and Risk Officer of NiSource is provided herewith as Exhibit JP-SA-1. Mr. Anderson describes the proposed Transaction from the perspective of the Seller and discusses the reasons why NiSource has decided to sell its Massachusetts business to a local natural gas system operator. Mr. Anderson also provides an overview of the process undertaken by NiSource and Bay State Gas to accomplish the sale. Mr. Anderson discusses the reasons that NiSource endorses the net benefits analysis presented in the testimony of Eversource Witness Mr. Horton.
14. Together, the testimony in support of the petition demonstrates that the proposed Transaction satisfies the public interest standard encompassed in G.L. c. 164, § 96, as applied by the Department in prior proceedings. See, e.g., Aquarion Water Company, D.P.U. 17-115 (2017); Sheffield Water Company, D.P.U. 16-37 (2016); Plymouth Water Company, D.P.U. 13-130 (2013); NSTAR/Northeast Utilities, D.P.U. 10-170 (2012); Boston Gas Company and Essex Gas Company each d/b/a National Grid, D.P.U. 09-139 (2010); Sale of Northern Utilities, D.P.U. 08-43-A (2008); NSTAR Electric Company, D.T.E. 06-40 (2007); Boston Edison/Commonwealth Energy System Merger, D.T.E. 99-19 (1999); Eastern-Colonial Acquisition, D.T.E. 98-128 (1999); Eastern-Essex Acquisition, D.T.E. 98-27 (1998); and NIPSCO-Bay State Acquisition, D.T.E. 98-31 (1998). In NSTAR/Northeast Utilities, the Department established a "net benefits" standard for evaluating the public interest in proposed mergers. D.P.U. 10-170-B at 30

(2012); see, also, Interlocutory Order on Standard of Review at 21 (March 26, 2011). Under the “net benefits” standard, a proposed transaction is consistent with the public interest where the Department finds “that the benefits of a consolidation, merger, or acquisition outweigh the costs.” D.P.U. 10-170-B at 30.

15. Bay State Gas customers will see immediate economic and non-economic benefits from the proposed Transaction. Eversource is not seeking changes to the rates charged to Bay State Gas customers upon Closing. Over the long term, Eversource anticipates that the proposed Transaction will provide opportunities for operating cost savings in certain operating areas, including the potential to manage gas portfolios on a combined basis to reduce gas supply costs and optimize gas resources. As Eversource customers, Bay State Gas customers will also benefit from increased reliability and safety of the system given Eversource’s high performance standards and service quality. The acquisition will enable Eversource to leverage best practices of its gas distribution business across the Bay State Gas platform. In addition, the Bay State Gas customers will be served going forward by a larger local company with expertise in emergency management and emergency response. Customers will also benefit because Eversource is committed to maintaining appropriate staffing levels that enable safe and reliable operations. Lastly, Eversource has one of the strongest financial profiles among U.S. distribution utilities with top-tier credit ratings that help to lower financing costs for customers.
16. Bay State Gas employees will benefit because they will have the opportunity to join Eversource upon Closing. Eversource’s proximity to the Bay State Gas service territory and its familiarity with the operations of Bay State Gas will allow for seamless integration of these employees into the Eversource organization. The proposed

Transaction will provide these employees advantages in joining a larger local company that includes natural gas, electricity and water operations. As Eversource employees, these individuals will enjoy greater opportunities for training, career development, and professional advancement as compared to the status quo, both within and outside of the natural gas distribution business.

17. Under G.L. c. 164, § 96, companies subject to this chapter or holding companies may sell and convey all or substantially all of their properties to another of such companies. “Such companies or holding companies may purchase such properties if . . . the purchase, sale, consolidation or merger, and the terms thereof, have been approved, at meetings called for the purpose of approving such sale, consolidation or merger, in the case of any contracting company organized under the laws of the commonwealth, *by a vote of the holders of at least two-thirds of each class of such company’s stock outstanding and entitled to vote on the question*, and, in the case of any contracting company organized in a jurisdiction other than the commonwealth, by a vote of the holders of at least that percentage of such company's outstanding stock *required for approval of the question under the laws of such jurisdiction.*” G.L. c. 164, § 96(b) (emphasis added).
18. Eversource is organized under Massachusetts law. Pursuant to its Declaration of Trust, no shareholder approval is required for acquisition of the Purchased Assets. No class of the company’s stock outstanding is entitled to vote on the Transaction; therefore, no shareholder vote is required by G.L. c. 164, § 96. The Eversource Board of Trustees has duly approved the Transaction.

19. NiSource is organized under Delaware law. Delaware law does not require a shareholder vote in relation to the Transaction; therefore, no shareholder vote is required by G.L. c. 164, § 96, in relation to the Transaction. See Plymouth Water Company, D.P.U. 13-130, at 3.
20. Bay State Gas is a Massachusetts corporation and its shares are wholly owned by NiSource Gas Distribution Group, Inc., a wholly owned NiSource subsidiary (“NGD Group”). The NiSource Board of Directors and the NGD Board of Directors have approved the Transaction; thereby providing the requisite shareholder consent under G.L. c. 164, § 96. The NiSource Board of Director approval is provided as Exhibit JP-SA-3.
21. EGMA is a Massachusetts corporation and its shares are wholly owned by Yankee Energy System, Inc., which is a wholly owned subsidiary of Eversource. Pursuant to EGMA’s articles of organization and bylaws, no shareholder approval is required for acquisition of the Purchased Assets. No class of the company’s stock outstanding is entitled to vote on the proposal; therefore, no shareholder vote is required by G.L. c. 164, § 96.
22. The Department has determined that an approval of a transaction under G.L. c. 164, § 96 obviates the need for separate approval under G.L. c. 164, § 21 for the transfer of utility franchises. Eastern-Essex Acquisition, D.T.E. 98-27, at 75-76 (1999). Accordingly, it is necessary and appropriate for the Department, in approving the transaction, to confirm that all of the franchise rights and obligations currently held by NiSource and Bay State Gas in relation to the Massachusetts business shall be held by EGMA upon Closing of the sale and no separate authorization is required under G.L. c. 164, § 21. See, e.g., Sheffield

Water Company, D.P.U. 16-37, at 39-41; Plymouth Water Company, D.P.U. 13-130, at 44-45; NSTAR/Northeast Utilities, D.P.U. 10-170, at 106-107; Eastern-Essex Acquisition, D.T.E. 98-27, at 75-76 (1999).

23. The terms of the APA require the parties to use their reasonable best efforts to cause the Transaction to be consummated as promptly as practicable. As noted above, conditions to Closing the Transaction include obtaining the MDPU Required Regulatory Approval, the MDPU Approval and the MDPU Required Resolution (APA at Sections 9.1 and 10.1). The Joint Petitioners seek to obtain the necessary approvals and satisfy all Closing conditions by September 30, 2020, in order to close by November 1, 2020. To that end, the Joint Petitioners respectfully request the Department's approval on or before September 30, 2020, so that customers may realize the substantial benefits of the transaction without undue delay.

WHEREFORE, the Joint Petitioners respectfully request that the Department:

- a. Determine that the Transaction and the terms thereof are consistent with the public interest and are approved pursuant to G.L. c. 164, § 96;
- b. Confirm that, upon Closing of the Transaction, EGMA will possess all of the franchise rights and obligations associated with the business of Bay State Gas, and that further action, pursuant to G.L. c. 164, § 21 is not required to close the Transaction;
- c. Determine that the Rate Stabilization Plan and the terms thereof are consistent with the public interest; would result in just and reasonable rates; and, is approved pursuant to G.L. c. 164, § 94;

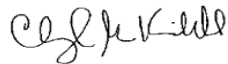
- d. Recognize that the applicable rate base for the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by Bay State Gas, for ratemaking purposes following the Closing shall be the rate base as of Closing, and that EGMA shall have the burden of showing prudence for any adjustments made to rate base after the Closing but not before the Closing (*MDPU Required Regulatory Approval*);
- e. Provide for the final resolution or termination of all pending actions, claims and investigations, lawsuits or other legal or administrative proceedings against Bay State Gas and its affiliates under the jurisdiction of the Department and all future actions, claims and investigations, lawsuits or other legal or administrative proceedings against Bay State Gas and its affiliates relating to the Greater Lawrence Incident under the jurisdiction of the Department (*MDPU Required Resolution*); and
- f. Issue such other and further orders as may be necessary and appropriate.

Respectfully submitted,

As Joint Petitioners

**EVERSOURCE ENERGY
EVERSOURCE GAS COMPANY OF
MASSACHUSETTS
NISOURCE INC.
BAY STATE GAS COMPANY d/b/a
COLUMBIA GAS OF MASSACHUSETTS**

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By its Attorney

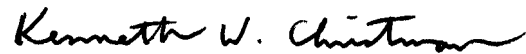
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Dated: July 2, 2020

**NISOURCE INC.
BAY STATE GAS COMPANY d/b/a
COLUMBIA GAS OF
MASSACHUSETTS**

By its Attorney,



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Eversource Energy, NiSource Inc.
Eversource Gas Company of Massachusetts
Bay State Gas Company d/b/a Columbia Gas of Massachusetts
D.P.U. 20-59
Exhibit JP-WJA/PMC-1
July 2, 2020
H.O. Sarah Spruce

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Petition of Eversource Energy, NiSource Inc.,)
Eversource Gas Company of Massachusetts) D.P.U. 20-59
and Bay State Gas Company d/b/a Columbia)
Gas of Massachusetts for Approval of)
Purchase and Sale of Assets Pursuant to)
General Laws Chapter 164, §§ 94 and 96)

JOINT TESTIMONY OF

WILLIAM J. AKLEY AND PENELOPE MCLEAN CONNER

On behalf of

Joint Petitioners
**Eversource Energy, NiSource Inc.,
Eversource Gas Company of Massachusetts
Bay State Gas Company d/b/a Columbia Gas of Massachusetts**

July 2, 2020

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DIRECT TESTIMONY OF

WILLIAM J. AKLEY AND PENELOPE MCLEAN CONNER

1 **I. INTRODUCTION**

2 **Q. Mr. Akley, please state your name and business address.**

3 A. My name is William J. Akley. My business address is 247 Station Drive,
4 Westwood, Massachusetts 02090.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am President, Gas Business, for Eversource Energy (“Eversource”). I am
7 employed by the Eversource Energy Service Company (“ESC”), which provides
8 financial, administrative and technical support to the Eversource direct and indirect
9 subsidiary operating companies, including NSTAR Gas Company (“NSTAR Gas”)
10 and Yankee Gas Services Company (“Yankee Gas”). My responsibilities include
11 oversight of the day-to-day operations of the gas distribution business and other
12 gas-related subsidiaries operating in Connecticut and Massachusetts. My oversight
13 duties include all maintenance, construction and emergency response activities, as
14 well as oversight of the Eversource liquefied natural gas (“LNG”) operations and
15 all customer meter-service activities across the gas distribution businesses. I lead
16 a team of 929 employees and manage an annual budget of approximately \$531
17 million.

1 **Q. Please describe your educational background and professional experience.**

2 A. I earned a Bachelor of Science degree in mechanical and industrial engineering
3 from Clarkson University in Potsdam, New York in 1983. In 1987, I earned a
4 Master of Business Administration degree from Adelphi University in Garden City,
5 New York. I joined the Brooklyn Union Gas Company in 1983 as a management
6 trainee and held a series of successively responsible positions in the gas business
7 operated by KeySpan Corporation (“KeySpan”), including project and design
8 engineering, dispatch, field operations, corrosion engineering, leak survey, budget
9 support and contract administration. In 2002, I was named Vice President for the
10 KeySpan organization with responsibility for Real Estate, Property Services and
11 Security. In 2004, I was named Vice President of Gas Operations - Long Island.
12 In 2007, I was promoted to Senior Vice President, U.S. Gas Operations and
13 Construction for National Grid’s U.S. gas distribution business, following National
14 Grid’s acquisition of KeySpan. I left this position in June 2014 and commenced
15 my current position with Eversource in November 2014.

16 **Q. Have you previously testified before the Massachusetts Department of Public**
17 **Utilities?**

18 A. Yes. I testified before the Massachusetts Department of Public Utilities (the
19 “Department”) in NSTAR Gas Company, D.P.U. 14-150 (2015). Prior to that, I
20 testified before the Department on behalf of National Grid in Boston Gas Company,
21 Colonial Gas Company and Essex Gas Company, D.P.U. 10-55 (2010) regarding

1 operations and maintenance practices used by National Grid to provide safe and
2 reliable service to customers. I also testified in Oversight Investigation into the
3 National Grid and KeySpan Merger, D.P.U. 07-30 (2010), regarding the
4 performance of the gas distribution business following the KeySpan/National Grid
5 transaction.

6 **Q. Ms. Conner, please state your name, position and business address.**

7 A. My name is Penelope McLean Conner. My business address is 247 Station Drive,
8 Westwood, Massachusetts 02090. I am Chief Customer Officer and Senior Vice
9 President of the Customer Group for Eversource. I am employed by ESC.

10 **Q. What are your principal responsibilities in this position?**

11 A. As Chief Customer Officer and Senior Vice President, I am responsible for
12 overseeing all aspects of customer service, including planning and directing all
13 activities related to the processes of customer inquiries, billing, credit and
14 collections and field operations. I am also responsible for delivering a cost-
15 effective portfolio of energy-efficiency programs to customers of the Eversource
16 operating companies, including NSTAR Gas. I lead a team of 1,323 employees
17 and manage an annual budget of approximately \$124 million.

18 **Q. Please describe your educational background and professional experience.**

19 A. I earned a Bachelor of Science degree in industrial engineering from North Carolina
20 State University and I am a registered Professional Engineer. From 1986 through

1 1998, I worked for Duke Power Company in Charlotte, North Carolina. I served in
2 a variety of roles starting in engineering and progressing to management of dispatch
3 and customer-service functions and assistant to the president of Duke Power,
4 culminating in a position as General Manager for Process Integration. From 1998
5 through 2002, I worked for Tampa Electric Company in Tampa, Florida as a
6 Director of Customer Service. I directed the customer service team of 350
7 employees with a \$21 million annual budget.

8 In the four years that I was with Tampa Electric Company, I improved customer
9 satisfaction while reducing overall customer service costs. For the years 1998
10 through 2001, I increased Tampa Electric Company's J.D. Power billing and
11 payment rankings from 11th to 5th in the nation, and customer service rank from
12 20th to 1st nationally, while reducing bad-debt write-offs by 20 percent. In 2002,
13 I was hired by NSTAR Electric and NSTAR Gas (together "NSTAR") as Vice
14 President of Customer Care, where I assured quality customer service for NSTAR's
15 1.3 million electric and gas customers. I was named Senior Vice President and
16 Chief Customer Officer in 2012 following the NSTAR/Northeast Utilities merger.

17 For over a decade, I have served as a columnist for Electric Power and Light
18 Magazine. I am the author of three books, *Customer Service: Utility Style*; *Energy*
19 *Efficiency: Principles and Practices*; and *Profiles in Excellence: Utility Chief*
20 *Customer Officers*. I am a member of the Edison Electric Institute Retail Services

1 Committee; Chair of the Customer Service Week Board of Directors; and Chair of
2 the American Council for an Energy Efficient Economy. I also serve on the City
3 of Boston's Green Ribbon Commission, among other charitable and public-service
4 organizations. I am also the chair of the Board of the United Way of Massachusetts
5 Bay and Merrimack Valley.

6 **Q. Have you previously testified before the Department?**

7 A. Yes. I have sponsored testimony in several prior proceedings before the
8 Department, including: NSTAR Electric Company, D.T.E. 07-64 (2007) (NSTAR
9 Green); Low Income Consumer Protection & Assistance, D.T.E. 08-4 (2008) (on
10 behalf of NSTAR Electric); Three Year Energy Efficiency Plans, D.P.U. 09-120
11 (2010) (on behalf of NSTAR Electric); NSTAR Electric Company, D.P.U. 10-06
12 (2010) (revised energy efficiency surcharge tariffs); NSTAR Electric Company,
13 D.P.U. 11-85-B/11-119-B (2012) (storm investigation); Electric Grid Modification,
14 D.P.U. 12-76 (2014) (grid modernization); Service Quality Guidelines, D.P.U. 12-
15 120 (2012) (on behalf of NSTAR Electric and WMECO); NSTAR Electric
16 Company and Western Massachusetts Electric Company each d/b/a Eversource
17 Energy, D.P.U. 15-122/123 (Grid Modernization Plan); NSTAR Electric Company
18 and Western Massachusetts Electric Company each d/b/a Eversource Energy,
19 D.P.U. 17-05 (2017 NSTAR Electric rate case); and NSTAR Gas Company, D.P.U.
20 19-120 (pending NSTAR Gas rate case).

1 **Q. What is the purpose of this joint testimony?**

2 A. In this filing, Eversource, NiSource Inc (“NiSource”), Bay State Gas Company
3 d/b/a Columbia Gas of Massachusetts (“Bay State Gas”) and Eversource Gas
4 Company of Massachusetts (“EGMA”) (collectively, the “Joint Petitioners”) are
5 requesting the Department’s approval of Eversource’s acquisition of the business
6 of Bay State Gas, which currently operates as a wholly owned subsidiary of
7 NiSource. From our perspective, the proposed transaction presents an unparalleled
8 opportunity to bring value to Massachusetts utility customers due to the
9 opportunities that exist to combine the operations of two, similarly sized natural
10 gas distribution systems and achieve operating efficacy that will improve public
11 safety and reliability, reduce environmental impact and, over time, drive cost
12 efficiencies. Eversource is galvanized by the challenge of making the most of this
13 exceptional opportunity to achieve benefits for Massachusetts gas customers that
14 would not be attainable under any other circumstance. Our testimony is designed
15 to provide the Department with insight into the opportunities that exist for
16 Massachusetts gas customers as a result of this transaction and Eversource’s plan
17 for successful realization of customer benefits.

18 The details of the transaction are set forth in the testimony of Eversource witness
19 Douglas P. Horton, including a quantitative analysis of the net benefits that are
20 estimated to be achieved over the next 10 years, as required by the Department’s
21 standard. Discussion on NiSource’s decision to sell the Bay State Gas operating

1 assets and other issues pertaining to NiSource’s exit from Massachusetts are
2 discussed in the testimony of NiSource witness Shawn Anderson. Our joint
3 testimony addresses: (1) Eversource’s operating philosophy and its objectives for
4 operating the Bay State Gas assets on a safe and reliable basis; (2) Eversource’s
5 plans to transition the Bay State Gas operations to the Eversource platform
6 following the close of the transaction on or before November 1, 2020; and (3) the
7 qualitative aspects of the net benefits analysis pertaining to operations, service
8 quality and energy efficiency.

9 **Q. How is your testimony organized?**

10 A. Following this introductory section, our testimony is organized as follows: Section
11 II provides a brief overview of the proposed transaction; Section III provides a
12 discussion of Eversource’s Gas Operations practices and philosophy and how
13 Eversource plans to extend its operating practices and philosophy to Bay State
14 Gas’s operating assets; Section IV provides a discussion of Eversource’s Customer
15 Service practices and philosophy and how Eversource plans to extend its customer-
16 related practices and philosophy to the Bay State Gas customer-service
17 organization; Section V discusses Eversource’s transition and “Day 1” plans;
18 Section VI discusses the qualitative aspects of the net benefits analysis pertaining
19 to operations, safety and reliability, service quality and energy efficiency; and
20 Section VII is the conclusion.

1 **II. PROPOSED TRANSACTION**

2 **Q. Please provide a brief description of Eversource.**

3 A. Eversource is a Massachusetts business trust with dual headquarters in Boston,
4 Massachusetts and Hartford, Connecticut. Eversource is engaged primarily in the
5 electric, natural gas, and water distribution business through its wholly-owned
6 utility subsidiaries, including: NSTAR Gas, NSTAR Electric Company, The
7 Connecticut Light and Power Company, Yankee Gas, Public Service Company of
8 New Hampshire, and Eversource Aquarion Holdings, Inc. (a utility holding
9 company that owns three regulated water utility subsidiaries). Together, the
10 Eversource companies serve approximately 3.8 million electric and natural gas
11 customers and approximately 229,000 water customers in Connecticut,
12 Massachusetts and New Hampshire.

13 **Q. Please describe the scope of Eversource's existing gas operations in**
14 **Massachusetts.**

15 A. In Massachusetts, the Eversource gas distribution business is conducted through
16 NSTAR Gas, operating as a wholly owned subsidiary of Yankee Energy System,
17 Inc. ("Yankee Energy"), which in turn is a wholly owned subsidiary of Eversource.
18 NSTAR Gas serves approximately 296,000 customers in 51 communities in central
19 and eastern Massachusetts. Some of the larger communities served by NSTAR Gas
20 include Cambridge, New Bedford, Plymouth, Worcester, Framingham, Dedham
21 and the Hyde Park area of Boston.

1 NSTAR Gas does not own on-system peaking facilities, but instead receives winter
2 peaking services from Hopkinton LNG Corp. (“HOPCO”) pursuant to a long-term
3 Gas Service Agreement, approved by the Department in NSTAR Gas Company,
4 D.P.U. 14-64 (2015). HOPCO is a wholly owned subsidiary of Yankee Energy.
5 HOPCO owns a LNG storage and production facility in Hopkinton, Massachusetts
6 consisting of a vaporization plant and three above-ground cryogenic storage tanks
7 having an aggregate capacity for LNG of 3.0 Bcf. HOPCO also owns and operates
8 peaking facilities in Acushnet, Massachusetts consisting of storage capacity of 0.5
9 Bcf and total vaporization capacity of 0.21 Bcf per day.

10 **Q. Please provide a brief description of Bay State Gas.**

11 A. Bay State Gas is a subsidiary of NiSource operating as a local gas distribution
12 company subject to the Department’s jurisdiction pursuant to G.L. c. 164, § 1. Bay
13 State Gas currently operates as one of seven natural gas distribution companies
14 within the NiSource organization. Bay State Gas currently provides retail natural
15 gas distribution service to approximately 321,000 residential, commercial and
16 industrial customers in three divisions geographically centered in Springfield,
17 Brockton, and Lawrence, Massachusetts. Although Bay State Gas’s three
18 distribution service areas are not physically proximate to each other, Bay State Gas
19 operates on a centralized and integrated basis to the extent possible.

1 **Q. Please provide a brief description of EGMA.**

2 A. EGMA is a wholly owned subsidiary of Eversource incorporated in Massachusetts
3 on May 15, 2020, pursuant to G.L. c. 164, § 1 to own and operate the business of
4 Bay State Gas. As contemplated by the Asset Purchase Agreement (“APA”),
5 Eversource intends to assign its rights and interests to acquire the business of Bay
6 State Gas to EGMA.

7 **Q. Please provide a brief description of the proposed transaction.**

8 A. Eversource’s purchase of the Bay State Gas’s operating assets is detailed in the
9 APA, which is included as part of the testimony of NiSource witness Shawn
10 Anderson (Exhibit JP-SA-2). As specified in the APA, Eversource’s purchase
11 constitutes a purchase and sale and subsequent change in control under G.L. c. 164,
12 § 96; therefore, requiring the Department’s approval.

13 **Q. Please explain why Eversource has decided to purchase the Bay State Gas**
14 **operating assets at this time.**

15 A. On September 13, 2018, Bay State Gas experienced an over-pressurization of the
16 low-pressure natural gas distribution system serving parts of Lawrence, Andover,
17 and North Andover, Massachusetts (“Greater Lawrence Incident”). The event
18 became subject to numerous investigations initiated by the National Transportation
19 Safety Board (“NTSB”), the Department, and the U.S. Department of Justice. On
20 February 26, 2020, the U.S. Department of Justice entered into a Deferred
21 Prosecution Agreement with NiSource wherein NiSource agreed to make its best

1 reasonable efforts to sell its interest in Bay State Gas, after which NiSource and
2 Bay State Gas would cease all natural gas distribution operations in Massachusetts.

3 Eversource is a natural fit to acquire the Bay State Gas operating assets for several
4 reasons. Eversource has an existing presence in Massachusetts; locally based gas
5 dispatch and emergency response functionalities; regional gas-resource
6 management capabilities that will allow for optimization of a combined resource
7 portfolio and resulting gas cost savings; and a strong operational track record in
8 New England. Moreover, Eversource has a proven record of investing in
9 infrastructure, employees, and the communities it serves. The addition of the Bay
10 State Gas operations will effectively double the size of the Eversource's natural gas
11 customer base in Massachusetts, increasing the number of customers served from
12 approximately 296,000 to nearly 617,000.

13 The investment in Bay State Gas will be transformative for both Bay State Gas
14 customers and NSTAR Gas customers in terms of the opportunities to achieve
15 safety improvements, reduce environmental impacts, enhance the customer
16 experience and, over time, realize operating cost efficiencies. Without the proposed
17 transaction, the scale and scope of benefits that customers will experience as a result
18 of Eversource's acquisition would not be achievable. Consequently, the transaction
19 provides an exceptional opportunity to achieve incremental customer benefits that
20 will be meaningful and sustained, and not otherwise achievable.

1 **III. TRANSITIONING GAS OPERATIONS**

2 **Q. What is the overall operating philosophy of Eversource in relation to its gas**
3 **distribution operations?**

4 A. Eversource is a mission-driven organization grounded in the voice of the customer.
5 Within the organization, there is an embedded cultural philosophy that values
6 leadership, the provision of safe and reliable service to customers, constant
7 attention to service-quality, and deep appreciation of employees and the skill and
8 talent they bring to the mission. Eversource strongly encourages employees to
9 engage, listen and learn from customers, colleagues and other industry participants;
10 and to incorporate that learning into everyday work so the customer is served with
11 the highest expertise and dedication in the industry.

12 Within Gas Operations, there is careful and consistent attention to detail. Gas
13 Operations relies on standardized construction practices, rigorous protocols for
14 training, testing and operator qualifications and comprehensive quality assessment
15 and quality control (“QA/QC”) processes, among other strategies, to assure work
16 is performed correctly and safely. NSTAR Gas’s QA/QC function introduces a
17 second, intensive level of internal review to assure adherence to applicable
18 standards and compliance requirements. Fundamentally, experts are in charge,
19 meaning that it is not enough to lead, but that Eversource leaders must also be
20 experts in the work tasks within their domain. This means that, from top to bottom,

1 a single mindset is in place, focused intently on getting the job done safely,
2 effectively and at a reasonable cost with minimal environmental impact.

3 **Q. Mr. Akley, please describe the leadership team of the Eversource gas-**
4 **distribution business.**

5 A. Effective November 10, 2014, I was named President of the Eversource's Gas
6 Distribution group. I have three direct reports: Kevin J. Kelley, Vice President –
7 Gas Operations; Gregory J. Hill, Vice President – Gas Engineering; and Darrin K.
8 Wertz, Director Pipeline Safety and Quality.

9 Mr. Kelley has been an employee of Eversource (and its predecessor companies)
10 for over 29 years and is responsible for various operational functions including but
11 not limited to Construction, Maintenance, Meter Services, Project Management and
12 Dispatch/Technical Services.

13 Mr. Hill joined Eversource in 2017. He is responsible for all engineering matters
14 associated with the NSTAR Gas business; LNG operations and LNG capital
15 projects involving three operating facilities located in Connecticut and
16 Massachusetts; gas emergency preparedness; and the gas-control activities for the
17 gas distribution business.

18 Mr. Wertz has 13 years of utility experience and joined Eversource in 2015. He is
19 responsible for the NSTAR Gas Pipeline Safety Management Systems and Quality
20 Assurance/Quality Control.

1 These three individuals are responsible for functional areas that play vital and
2 interrelated roles in achieving the central mission of NSTAR Gas, which is to
3 provide safe and reliable service to customers at a reasonable cost. This leadership
4 team and the NSTAR Gas organizational structure facilitate the ability to meet
5 growing operating challenges, including increasing compliance requirements
6 geared toward ensuring continued safe operation of the system and the accelerated
7 replacement of aging, leak-prone infrastructure.

8 **Q. How does the NSTAR Gas organizational structure assist in meeting pipeline**
9 **safety regulatory requirements?**

10 A. The NSTAR Gas Operations Group is responsible for system repair and
11 maintenance activities, as well as new construction and replacement of leak-prone
12 mains and services. The Gas Operations Group is also responsible for performing
13 the work associated with pipeline safety requirements and is organized on a
14 functional basis centered around: Maintenance, Construction, Meter Services,
15 Project Management and other compliance activities such as facility mark-outs,
16 corrosion control and leak management activities, among other functions.

17 The Gas Engineering Group is responsible for gas system operations,
18 Instrumentation and Regulation (“I&R”) and LNG operations, as well as for
19 defining the compliance activities and system replacement work needed to be
20 completed in any given calendar year or regulatory driven timeframe. The Gas
21 Engineering Group is also responsible for ensuring that gas policies, procedures,

1 and standards comply with all state and federal regulations, as well as gas system
2 operations, I&R and LNG operations.

3 The Pipeline Safety and Quality Group is responsible for implementation of the
4 Pipeline Safety Management System as well as QA/QC of gas projects.

5 **Q. Mr. Akley, what are the most important priorities for NSTAR Gas from an**
6 **operating perspective?**

7 A. The natural gas business has experienced many changes over the last several years.
8 However, the guiding principle driving all decision making in the natural gas
9 distribution business is public safety. This bedrock principle has existed for my
10 entire career in the gas industry and remains a central focus for NSTAR Gas today
11 and for the future. At Eversource, our shared commitment to “Safety First and
12 Always” is a principle and mindset that is weaved into the fabric of every job and
13 every task—whether in the field or in the office. The gas industry cannot survive
14 without confidence that the system is safe, and this has always been true.
15 Accordingly, safety is the highest priority for Eversource.

16 NSTAR Gas has a strong focus on continual improvement of the safety and
17 reliability of the system. This focus requires NSTAR Gas to conduct a range of
18 activities on a day-to-day basis, including prioritization of replacement programs
19 for aging infrastructure and other rigorous efforts, in order to maintain full
20 compliance with federal and state pipeline safety regulations, among meeting other

1 objectives. Efforts in this regard were advanced by the legislature’s initiative in
2 2014 to put in place *An Act Relative to Natural Gas Leaks* (the “Gas Leaks Act”),
3 which permitted local distribution companies (“LDCs”) to submit to the
4 Department annual plans to repair or replace aged natural gas infrastructure.

5 On October 31, 2014, NSTAR Gas, Bay State Gas and other LDCs submitted the
6 first GSEP filings setting forth plans for replacing leak-prone infrastructure during
7 the 2015 construction year. Pursuant to the Gas Leaks Act, each gas company,
8 including NSTAR Gas and Bay State Gas, established a timeline to replace all leak-
9 prone infrastructure on an accelerated basis, specifying an annual replacement pace
10 and a program end date. On April 30, 2015, the Department approved each gas
11 company’s GSEP, thereby commencing accelerated pipeline replacement across
12 the Commonwealth and corresponding dramatic increases in capital investment and
13 O&M activity. The GSEP program is a very important initiative for NSTAR Gas
14 and Bay State Gas, as it is for the other Massachusetts LDCs, in terms of public
15 safety and reducing environmental impacts of the gas distribution systems.

16 **Q. What are the principal operational areas that NSTAR Gas is working on to**
17 **promote the safety of the system?**

18 A. Over the last several years, NSTAR Gas has focused on implementing several
19 measures, initiatives, and organizational enhancements to improve the safety of
20 operations. The two principal areas of focus are, as follows:

- 1 • Gas Control and Dispatch Consolidation. In November 2018, Eversource
2 completed the consolidation of its Massachusetts and Connecticut Gas Control
3 operations into a single combined location in Southborough, Massachusetts.
4 This consolidation was undertaken, in part, to better leverage best practices
5 from each Gas Control and Dispatch area. In addition, with the ability to cross-
6 train employees, NSTAR Gas will provide more enhanced Gas Control and
7 Dispatch support during non-routine peak periods.
- 8 • Standardization of Procedures & Construction Standards. Eversource is
9 working to consolidate and standardize the Massachusetts and Connecticut
10 procedures and construction standards into a common set of procedures and
11 construction standards across the entire Eversource gas-service territory.
12 Having a single set of procedures and construction standards will streamline
13 and standardize operations, improve the effectiveness of employee training, and
14 augment service quality across the entire business. This effort is nearly
15 complete. However, standardization is an on-going process and NSTAR Gas
16 expects to continually update and refine its operating procedures over time.

1 **Q. What are the supporting areas of focus that NSTAR Gas is working on to**
2 **promote safety and service quality on its distribution system?**

3 A. In addition to the two principal areas of focus discussed above, NSTAR Gas has
4 taken the following actions to reinforce safety:

5 • QA/QC Program. NSTAR Gas has greatly enhanced its QA/QC program.
6 Through quality management, NSTAR Gas is ensuring that its people,
7 processes, and technology work effectively to achieve excellence in safety,
8 compliance, reliability and productivity. The NSTAR Gas QA/QC program
9 performs random, post-construction audits and re-dig inspections highlighting
10 where risks exist. Objectives include reviewing construction with respect to
11 federal/state safety codes, Construction Standards, Safety Policies and Operator
12 Qualifications (“OQ”). QA/QC assists with taking corrective action when
13 required and helps ensure that focus is re-directed on proper procedures when
14 necessary. QA/QC also highlights when modifying current procedures/training
15 is necessary and promotes the addition of new procedures and training, all
16 designed to further increase safety and efficiency.

17 • Improved Safety Performance. Eversource is committed to providing a safe
18 work environment. Eversource recently hired Ken Bogler as Vice President,
19 Safety, who is dedicated to overseeing NSTAR Gas’s culture of “Safety First
20 and Always.” This principle guides all employees to take personal
21 responsibility by following required safety practices, acting proactively to

1 prevent incidents and injuries, communicating potential hazards and being
2 prepared for emergencies that may occur in the workplace. NSTAR Gas has
3 improved safety performance with a “Safety First and Always” culture and it is
4 a key operating focus for the business. Eversource’s goal is a zero-injury
5 environment.

6 • Eversource Operator Qualification Program. In 2017, NSTAR Gas
7 implemented an Eversource-specific OQ program, which includes third-party
8 proctoring of all employee testing. NSTAR Gas is the first New England
9 company to move its on-line OQ testing to an offsite testing facility. The
10 benefits of this initiative include:

- 11 ■ Aligning OQ testing with NSTAR Gas standards, which in all cases at least
12 match the minimum federal requirements, and in many instances exceed the
13 minimum federal regulations.
- 14 ■ Ensuring employees and contractors are knowledgeable of and trained on
15 those requirements.
- 16 ■ Providing a secure online testing environment where content is protected
17 (Pro-metric testing centers are established nationwide as a secure and
18 trusted testing center used by hundreds of organizations).
- 19 ■ Conducting performance evaluations with an objective third-party vendor
20 (Lonestar Consulting Services), which is subjected to periodic audits by
21 NSTAR Gas’s online database provider, Energy Worldnet.

- 1 • Recruiting and Training. Eversource’s most valuable resource is its workforce, and
2 for this reason, recruiting and training is vitally important to Eversource’s mission
3 of delivering safe and reliable energy service and a superior customer experience.
4 NSTAR Gas recently completed a new training facility at Eversource’s Berlin
5 campus, which contains a Natural Gas Training Yard, featuring five main activity
6 areas that focus on providing safe, hands-on training for natural gas personnel.
7 NSTAR Gas has been pursuing opportunities to create the same training
8 opportunity in Massachusetts where it can conduct classroom training and hands-
9 on training to new hires, veteran employees, and contractors who work on the
10 NSTAR Gas natural gas distribution system.
- 11 • Pipeline Safety Management System (“PSMS”) Implementation. After the Greater
12 Lawrence Incident, the Department requested that all gas companies adopt API
13 1173 and review their safety protocols, including an examination of the feasibility
14 of implementing a PSMS. NSTAR Gas was one of the first companies to begin
15 piloting API 1173 back in 2016 because it recognized, early on, that it is a rigorous,
16 proactive approach to safe pipeline operation. In the wake of the Greater Lawrence
17 Incident, NSTAR Gas committed to accelerate its deployment of a PSMS to
18 augment its existing processes and procedures, to deal systematically with safe and
19 effective pipeline operation on an enterprise-wide basis, and to minimize the
20 potential for human-performance errors.

- 1 • Refined Emergency Response Plan. Between 2014 and 2019, Eversource
2 conducted a comprehensive review of its Gas Operations Emergency Response
3 Plans (“ERPs”) to identify and incorporate best practices and harmonize training,
4 practices, and procedures across its operating units. This effort was accomplished
5 by a dedicated NSTAR Gas team managed by Joshua D. White, the recently
6 appointed Manager of Gas Emergency Preparedness for NSTAR Gas.

7 Mr. White has a Master of Science in Emergency and Disaster Management and,
8 prior to his current position with NSTAR Gas, had an impressive career building
9 expertise in operational planning and strategic analysis. Mr. White previously
10 served as the Operations Manager for the Federal Emergency Management
11 Agency, Region I, where he managed the operational response of all federal
12 military assets across six states during Superstorm Sandy and Hurricane Isaac. In
13 this capacity, Mr. White served as the primary safety officer for all federal military
14 assets deployed within Region I in support of disaster response operations during
15 three presidential-declared disasters.

16 The ERP is the foundation of a comprehensive emergency management program
17 of preparedness, mitigation, response, and recovery actions designed to preserve
18 the public safety and welfare through the delivery of safe, efficient, and reliable gas
19 service.

1 **Q. What are the factors driving change in the NSTAR Gas business and operating**
2 **environment looking forward?**

3 A. The Greater Lawrence Incident has had a profound impact on the natural gas
4 industry and prompted both the industry and its regulators to reevaluate safety
5 standards, practices, protocols, and procedures to enhance the safety and reliability
6 of the Commonwealth's natural gas distribution systems. The Greater Lawrence
7 Incident will catalyze change to the regulation of natural gas and the business and
8 operating environment into the future.

9 In fact, this catalyzation has already started to take shape. For example, on
10 December 31, 2018, Massachusetts Governor Baker signed Chapter 339 of the Acts
11 of 2018, *An Act Further Providing for the Safety of the Commonwealth's Natural*
12 *Gas Infrastructure* ("Gas Safety Act"), as emergency legislation requiring a
13 licensed Professional Engineer to approve plans for the construction of natural gas
14 infrastructure. In March 2019, the Department initiated a proceeding to promulgate
15 the regulations necessary to implement the Gas Safety Act.

16 In the wake of the Greater Lawrence Incident, the natural gas industry must rebuild
17 the trust of all stakeholders, including the public and regulators, and work to restore
18 their confidence in the safety and reliability of the natural gas system. NSTAR Gas
19 recognizes that increasing investments and improvements to operating processes
20 are necessary, and it plans to work hard to further improve the safety and reliability

1 of the NSTAR Gas distribution system and to raise the caliber of safety and
2 reliability on the Bay State Gas distribution system to the same level.

3 **Q. Mr. Akley, what approach will Eversource take to assure the safe and reliable**
4 **operation of the Bay State Gas operating assets going forward?**

5 A. Eversource is already well underway in implementing a four-phase process to
6 assume operation of the Bay State Gas operating assets and to assure the safe and
7 reliable operation of those assets. These four phases are: (1) assessment and
8 evaluation of all phases and functions of the Bay State Gas operations; (2) extension
9 of the existing NSTAR Gas operations management structure to the Bay State Gas
10 operations in the NSTAR Gas management model; (3) management “drill-downs”
11 into all engineering, operations and construction processes to instill leadership
12 structures and align processes with those followed on the NSTAR Gas platform;
13 and (4) systematic planning and investment in the distribution system to reinforce,
14 refurbish or replace non-GSEP system components to operate efficiently and
15 effectively in providing safe and reliable service to customers.

16 **Q. What is Eversource’s plan to assess and evaluate of all phases and functions of**
17 **the Bay State Gas operations?**

18 A. At the end of April 2020, Eversource engaged TRC Companies, Inc. (“TRC”) to
19 assist in conducting assessments in several operational areas associated with the
20 integration of the Bay State Gas operating assets into Eversource’s local gas
21 operations. TRC’s engineers have substantial expertise to assist Eversource in

1 assessing the Bay State Gas operations and planning strategies to assure safety,
2 operational reliability. and regulatory compliance. Work with TRC has just started,
3 however, Eversource and TRC have defined an initial scope of work in three
4 segments: (1) Maps and Records assessment; (2) Standards and Procedure review;
5 and (3) PSMS assessment. The focus of each assessment area is as follows:

6 (1) Maps & Records Assessment

7 This process will evaluate existing procedures to update and maintain maps and
8 records including process flow, timeliness, who is involved, source documents
9 used, process to capture field generated updates and revisions and the systems
10 utilized, and will identify the source of asset records that determine current system
11 configuration and compliance maintenance programs.

12 This process will also complete an overall assessment of the Bay State Gas maps
13 and records by asset category (Gate/Regulator Stations, Transmission Pipelines,
14 Distribution Mains, Distribution Services, Customer Assets, Supplemental Gas) to
15 capture and understand accuracy and completeness, to evaluate electronic versus
16 paper records, and to assess the availability of latest information to field crews and
17 contractors. This assessment will also review historical damages and those related
18 to maps and records to assess any areas of concern and validate completion of the
19 NTSB recommendation related to maps and records. Lastly, there will be a review
20 of the information provided in work packages used for conducting maintenance and

1 construction activities on the system. The assessment will identify overall areas of
2 weakness, risks, and gaps, as well as any ongoing initiatives to address these
3 concerns.

4 (2) Standards/Procedures Review

5 This process will review Bay State Gas construction standards and operating
6 procedures. Work tasks that will be completed include providing an overview of
7 the structure and format of the Bay State Gas standards and operating procedures
8 and match those processes to the Eversource equivalent. TRC will validate that the
9 Bay State Gas construction standards and operating procedures meet or exceed all
10 applicable federal and Massachusetts requirements. TRC will also compile details
11 on the current Bay State Gas live-gas work procedures covering written procedures
12 (who writes, qualifications, specifics of procedure structure used, how approved);
13 engineering and constructability reviews; professional engineer sign-offs;
14 coordination with Gas Control and System Planning; and other issues relating to
15 procedure oversight and documentation.

16 (3) Pipeline Safety Management System

17 This process will develop a plan to integrate the Bay State Gas PSMS into
18 Eversource's program. TRC will develop a gap analysis and generate an overview
19 of the Bay State Gas QA/QC program and non-compliance findings and actions.
20 TRC will also generate a plan to integrate and deploy the PSMS program to mirror
21 the Eversource program for internal and contractor crews. TRC will also develop

1 a “CAP” program summary and identify specific projects and actions since start-
2 up of the program.

3 **Q. What is the status and timeline for completion of the TRC assessments?**

4 A. TRC’s work on the assessments is already underway, having commenced at the end
5 of April 2020. Currently, there are 7-8 team members working on scoping out a
6 work plan in each of these three areas. Ultimately, there will be three separate
7 teams with potentially a total of 15-20 team members to complete the work. The
8 expectation is that the assessment work will take several months to complete. The
9 current goal is to complete a preliminary assessment by the end of August 2020,
10 but the actual completion schedule will be informed by information generated
11 through the assessment. Eversource anticipates that the process will be iterative,
12 meaning that work plans and schedules will change as knowledge is gained and
13 more detail is known regarding work that needs to be done. Therefore, it is
14 expected that the schedules and tasks within these three initial areas of work will
15 need to be adjusted as work progresses. Also, additional areas of work may be
16 added as needed as overall integration efforts progress.

17 **Q. What is Eversource’s plan to extend the existing NSTAR Gas management**
18 **structure to the Bay State Gas system?**

19 A. As described in more detail below, Eversource expects to overlay the current Bay
20 State Gas operations management structure with an extension of the NSTAR Gas
21 operations management structure. Bay State Gas personnel will continue to

1 perform portions of the day-to-day operations work; however, those personnel will
2 immediately begin reporting to the NSTAR Gas management team, through a chain
3 of command that will be organized based on the NSTAR Gas model. As required
4 by Section 8.3 of the APA, Eversource will offer employment to all Bay State Gas
5 employees (except those listed in Exhibit A-1 to the APA) who are employed in
6 good standing at closing. Eversource is in the process of assessing the long-term
7 needs of the organization and additional hiring may be necessary to right-size the
8 Gas Operations organization to cover the overall operations organization, so that
9 both companies are positioned to deliver high-quality, safe and reliable service.

10 **Q. Does Eversource plan to complete a specific assessment to serve as the basis**
11 **for a long-term investment plan for non-GSEP Bay State Gas operating**
12 **assets?**

13 A. Yes. The three assessment paths that TRC is engaged with at present are primarily
14 aimed at evaluating all phases and functions of the Bay State Gas operations to
15 assist Eversource's effort to reorganize the management structure of the Bay State
16 Gas operations so that it operates as an extension of the existing NSTAR Gas
17 operations management structure and to facilitate management efforts to instill
18 leadership structures and align processes on the Bay State Gas system with those
19 followed on the NSTAR Gas system. Thus, the overall focus and impact of the
20 TRC assessments will be to redefine and restructure the Bay State Gas operations
21 from a management and day-to-day operating perspective.

1 Separately, Eversource is planning to conduct a comprehensive assessment of the
2 system infrastructure, including non-GSEP system components, reliability needs,
3 and LNG/liquefied petroleum gas (“LPG”) infrastructure to develop a work plan to
4 reinforce, refurbish or replace non-GSEP system components to operate efficiently
5 and effectively in providing safe and reliable service to customers. This assessment
6 will take more time and necessarily will be sequenced after the TRC assessments
7 are completed because the TRC assessments are critical to Day 1 operations.
8 Eversource anticipates that the system infrastructure assessment would be
9 completed no later than third quarter, 2021. Once the system infrastructure
10 assessment is complete, Eversource will be in a position to develop a long-term
11 investment plan to address the refurbishment of system components in need of
12 upgrades, replacement or reinforcement. Eversource’s current perspective is that
13 the LNG/LPG operations may be one of the highest priorities for the planned capital
14 work plan due to the age, condition and significance of those facilities to the Bay
15 State Gas supply portfolio.

16 **IV. TRANSITIONING CUSTOMER SERVICE**

17 **Q. Ms. Conner, what is Eversource’s overall philosophy for customer service?**

18 A. Eversource is the largest energy provider in New England. In that role, Eversource
19 is fully committed to safety, reliability, environmental leadership and expanding
20 energy options for its approximately four million electric, natural gas and water
21 customers. Eversource has set an aggressive goal—to be the best energy company

1 in the nation. This goal is built upon several pillars, two of which are: (1) achieving
2 operational excellence; and (2) delivering a superior customer experience. With
3 respect to delivering a superior customer experience, Eversource is pursuing a
4 multiplicity of solutions to enhance the ways in which customers interact with
5 Eversource and that make doing business with Eversource quick and easy.

6 **Q. Ms. Conner, please discuss some of the specific steps Eversource is pursuing**
7 **to achieve its customer-service vision and meet the expectation of today's**
8 **customers.**

9 A. A primary interface between Eversource and its customers is billing and payment,
10 with nearly 12 million payment and billing transactions monthly. In fact, over 90
11 percent of the visits to Eversource's website are made to view and pay utility bills.
12 Accordingly, Eversource has made several key investments to make the billing and
13 payment experience better for customers. For example, in 2016, Eversource
14 implemented a new full-color bill (designed with direct customer feedback), which
15 makes information easy to find and provides a clear view of energy use and charges
16 to help customers better understand and manage their energy costs.

17 In addition, Eversource has partnered with KUBRA, an industry leader in customer
18 experience management solutions, to develop and launch the 'My Eversource
19 Account' portal on Eversource.com. The 'My Eversource Account' portal provides
20 customers with an enhanced digital billing and payment experience and allows
21 customers to initiate a service reconnection order (as applicable); view and pay bills

1 in as few as two clicks; establish bill and payment alerts in the channel of their
2 choice; and find support in the online experience with a virtual assistant, among
3 other items.

4 Eversource has implemented a consolidated credit card processing solution with
5 additional options and reduced fees for residential customers. Also, in an effort to
6 source locally, Eversource has moved its check payment processing operation to
7 Massachusetts, which has significantly reduced payment posting time for the
8 benefit of customers.

9 Looking ahead, Eversource will continue to focus on improving billing and
10 payment options for customers. A significant initiative is the implementation of a
11 fee-free credit and debit card program, which the Department is considering in
12 D.P.U. 19-71. Eversource views the fee free credit and debit card program as a
13 meaningful and necessary step forward to accommodate changing customer needs,
14 expectations, and preferences regarding their payment options for utility service.
15 Eversource has already implemented a fee-free program in Connecticut and
16 experienced positive and immediate impacts on customer satisfaction.

17 Eversource has also focused on improving the other channels through which it
18 interfaces with customers. For example, Eversource has created focused training
19 for its customer-service representatives (“CSRs”); enhanced the tools that CSRs
20 have at their fingertips when they are interacting with customers; and implemented

1 a CSR-facing informational tool called Knowledgebase. The Knowledgebase tool
2 is searchable by entering a question or key word and services all Eversource
3 Customer Contact Centers. Eversource’s first call resolution metric is in the top
4 quartile in the industry because of these efforts. Eversource also recognizes that a
5 growing population of its customer base prefers and is moving toward digital
6 channels. This preference is driven, in part, by consumers’ transactional
7 experiences with service providers in other industries such as Amazon, Uber,
8 American Express, and Netflix. In other words, customer service expectations are
9 being set outside of the gas and electric utility industries.

10 Today’s digital consumers want the same type of experience in every transaction
11 with service providers, and they want that experience to be intuitive, personalized,
12 and easy. Consequently, customer satisfaction in the utility space is more and more
13 closely linked to the availability of digital tools and electronic engagement
14 channels. For that reason, Eversource continues to enhance its website to make it
15 more user friendly. For example, Eversource has improved the move-in experience
16 by enabling customers to enroll in billing and payment alerts and paperless billing
17 all within the move-in application. More specifically, Eversource has enhanced its
18 online “Start Service” process to enable customers to easily set up their gas and
19 electric service in a single, online transaction. New features include the ability to
20 schedule move-in service requests and receive a confirmation email with
21 additional, helpful information following each transaction. Eversource has also

1 implemented a new mover welcome email series that provides customers with: (1)
2 welcome to Eversource and general information; (2) my account information – how
3 to sign up for services, etc.; (3) information on how to report an outage; and (4)
4 information about energy efficiency programs.

5 Eversource also recently launched its first mobile app for Apple and Android
6 phones. The new mobile app makes Eversource account management easier and
7 more convenient and consists of features that include the ability to view and pay a
8 bill, manage paperless billing and payment, manage outage and disconnect alerts,
9 report or check an electric outage, as well as easy access to Eversource’s outage
10 map and customer service contact information. Among the many yardsticks for
11 best-in-class digital customer experience, mobility ranks high. This has been a
12 hugely popular new offering and it has already been downloaded more than 180,826
13 times, and over 5,600,000 customer interactions have occurred, including 786,361
14 payments. The app has been well received with high ratings by customers in the
15 app stores. Overall, the launch of the mobile app has exceeded expectations.

16 Eversource has also taken proactive steps to ensure that non-English speakers can
17 easily access its services. For example, Eversource is staffing its customer contact
18 center with Spanish and Portuguese-speaking CSRs. Eversource also has a
19 language-line service that provides interpretive services. Additionally, Eversource

1 is working on an initiative to provide content on its website in Spanish, which is
2 the most predominantly spoken language in Massachusetts other than English.

3 **Q. Is the concept of sustainability part of Eversource’s customer-service vision?**

4 A. Yes. Eversource is working hard to be recognized as one of the greenest energy
5 companies in the nation. Eversource’s commitment to environmental sustainability
6 is an important part of its daily business operations and key to its vision to become
7 the best energy company in the nation.

8 **Q. Within the Eversource sustainability vision, how do natural gas customers
9 help to reduce greenhouse gas emissions?**

10 A. Eversource is consistently recognized as a leader in energy efficiency by national
11 industry organizations. Eversource’s energy efficiency portfolio reflects and
12 responds to the way its customers live and use energy today and takes a multi-year
13 approach that helps customers plan for the future.

14 The Massachusetts Energy Efficiency programs are foundational to optimizing
15 energy usage in the Commonwealth. The latest three-year energy efficiency plans
16 covering 2019-2021 are expected to reduce natural gas usage by 1.25 percent of
17 annual sales statewide (1.34 percent of annual sales for NSTAR Gas)—the highest
18 natural gas savings goal ever set in Massachusetts. Customers who convert from a
19 baseline efficiency oil heating system to a high-efficiency natural gas system, can
20 reduce their greenhouse gas emissions by a total of 40 percent.

1 In addition, the efficiency of home heating and water heating equipment has
2 improved considerably over the past several decades. Regarding heating
3 equipment, when efficiency is higher, less natural gas needs to be used by the
4 furnace or boiler to get the same amount of heat output. New gas heating systems
5 can have efficiencies as high as 97 percent while the most efficient oil heating
6 system available only reaches 89 percent. In Massachusetts, the Mass Save®
7 program offers rebates on high efficiency heating equipment as well as zero-percent
8 financing for major energy efficiency measures. These equipment efficiency
9 improvements, combined with initiatives like Mass Save®, contribute to a
10 reduction in the use of natural gas.

11 **Q. Ms. Conner, what approach is Eversource planning to take to assure that its**
12 **principles for customer service are transitioned to the Bay State Gas system**
13 **on a going forward basis?**

14 A. Eversource is guided by its vision for the customer experience, which is simply
15 stated as: “easy to do business with every time.” Eversource further defines its
16 customer experience vision with a focus on: “We Deliver; Always Easy and
17 Friendly.” Implementing this vision starts with Eversource’s employee team and
18 is supported with processes and technology. Eversource will implement this same
19 vision and deliver an exceptional customer experience for Bay State Gas customers.

20 With respect to our employee team, Eversource will provide training on its
21 customer experience vision, and reinforce this vision through regular

1 communications, leadership interactions, and performance expectations.

2 Eversource will celebrate and recognize employees as they deliver on this Customer

3 Experience vision, and will listen to employees as they provide input, ideas and

4 feedback on how Eversource can continually enhance the Customer Experience.

5 From a process perspective, Eversource will review and will re-engineer every

6 customer facing process at Bay State Gas to ensure it achieves the Eversource

7 vision for the customer experience: “easy to do business with every time.” In

8 situations where the process is not delivering on this experience, Eversource will

9 identify action steps and resources needed to transform the process. Eversource

10 will prioritize enhancements looking at parameters of cost, customer impact and

11 implementation aspects.

12 From a technology perspective, Eversource will review and assess the technology

13 platforms to identify enhancements, upgrades or new systems that are needed to

14 achieve the customer experience vision. As with our process re-engineering,

15 Eversource will identify action steps and resources needed to ensure the customer

16 facing platforms have the capabilities required to achieve the customer vision.

17 Eversource will prioritize technology investments using the parameters of cost,

18 customer impact and implementation aspects.

1 **V. INTEGRATION AND DAY 1 OPERATION**

2 **Q. What are Eversource’s overarching goals for the transition and integration**
3 **process?**

4 A. Under the current circumstances, transitioning the Bay State Gas operations to the
5 Eversource platform will be a challenging process that will require a considerable
6 work effort over several years following the closing of the transaction. The
7 NiSource Corporate Service Company (“NCSC”)¹ provides a substantial level of
8 support to the Bay State Gas operations, with many workstreams conducted at
9 NCSC’s headquarters in Columbus, Ohio. Typically, in a merger or acquisition,
10 the entire corporate structure is included in the transaction, such as when Northeast
11 Utilities and NSTAR merged in 2012. Although a considerable amount of work
12 was undertaken in relation to the Northeast Utilities/NSTAR merger to integrate
13 operations, all of the workstreams involved were encompassed within the Northeast
14 Utilities enterprise subject to the control of Northeast Utilities management, so that
15 all parts of the process were managed internally. With the sale of the Bay State Gas
16 operating assets, the circumstances are very different. Here, it will be necessary for
17 Eversource and NiSource to work very closely over time to transition the functions
18 fulfilled by NCSC to the Eversource organization. While this transition is
19 accomplished, Eversource and NiSource will operate subject to certain transition
20 arrangements and agreements, which were not necessary in the Northeast Utilities

¹ The NiSource operating companies are supported by NCSC, a service company providing shared services to all of the NiSource operating companies, including Bay State Gas.

1 and NSTAR merger. Eversource and NiSource are both fully committed to a
2 successful, seamless transition. A successful transition is vital to assure that all
3 customers of Bay State Gas and NSTAR Gas receive safe, reliable, high-quality,
4 and cost-effective natural gas service.

5 **Q. How are Eversource and NiSource approaching the transition process?**

6 A. Eversource and NiSource have each established a multi-dimensional Integration
7 Team to work together to identify current processes and to convey information to
8 assist Eversource in taking over the management of the Bay State Gas operating
9 assets. The Project Governance Structure is depicted in Figure 1 below and is
10 designed to support a phased integration process with clear reporting and decision-
11 making protocols to assure an overall smooth transition.

1

Figure 1: Project Governance Structure

Steering Committees (NiSource/Eversource)	<ul style="list-style-type: none"> • Define transition/integration goals and drive the strategic vision • Oversee integration planning and report progress to executive leaders
Transition/Integration Management Office	<ul style="list-style-type: none"> • Act as conduit between Functional Teams and Steering Committee • Centrally coordinate day-to-day planning, issue/dependency tracking, status reporting, and facilitation across function integration teams
Functional Leads	<ul style="list-style-type: none"> • Plan for function Day 1 readiness • Coordinate and delegate Day 1 readiness activities with Sub-Team members and other function representatives • Develop and monitor integration milestones and workplans
Sub-Teams	<ul style="list-style-type: none"> • Support Functional Leads with planning and execute Day 1 readiness initiatives at the working level • Regularly report progress and issues to the Functional Leads

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Eversource and NiSource will take a deliberate and programmatic approach to transitioning the different functional areas of the Bay State Gas business. At a high level, the integration will proceed in three key stages, as shown below in Figure 2:

1

Figure 2: Separation and Integration Approach

SEPARATION	<ul style="list-style-type: none"> • Identify the activities required to separate the business • Identify the data elements, infrastructure, contracts, etc. to be transferred to Eversource • Identify tasks required to be performed before Day 1, on Day 1 and post Day 1
TRANSITION	<ul style="list-style-type: none"> • Identify services Eversource will need post Day 1 to transition the business • Define service levels and duration • Identify tasks required to facilitate the services (e.g., creation of data files, IT impacts etc.)
FUTURE STATE	<ul style="list-style-type: none"> • Identify impacts on business operations post separation (e.g., changes in processes, resource responsibilities, IT interfaces, etc.) • Identify tasks required to exit Transition Services Agreements and fully integrate the business • Responsibility of Eversource to drive Future State design and execution

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With respect to the first phase (Separation), Eversource and NiSource are currently working collaboratively to exchange information and documentation about the personnel and operating assets that are being transitioned, so that both organizations are ready to move forward on Day 1, following the close of the transaction. During the second phase (Transition), there will be some functional areas that can be safely and efficiently transferred to Eversource on Day 1. However, there will be some functional areas that will require a more gradual transition.

1 To assist in the transition of the functional areas that require a longer schedule to
2 accommodate the complexities involved, Eversource and NiSource will execute a
3 series of Transition Service Agreements (“TSA”) at closing to delineate roles and
4 responsibilities and assure business continuity following the closing, until such
5 time that transitions can be completed. The TSAs will set forth a schedule of
6 services that will continue to be performed by NiSource until such time as the
7 services can be safely and effectively transitioned to Eversource and are likely to
8 encompass more than 50 separate business processes, each requiring its own TSA.

9 **Q. What are the transition services that NiSource will provide pursuant to the**
10 **TSA during the period following closing?**

11 A. A list of categories of transition services and the expected duration of these services
12 is set forth in the form of TSA. The high-level categories of transition services
13 include Business Operations, Network and Telecommunications, IT Contract
14 Management, Application Support, Infrastructure (Computing) Support, IT
15 Security Services, End-User Computing Support, Engineering & Operations, Gas
16 Supply, Facilities Management, Financial, Environmental, and System and
17 Application Migration. Prior to closing, Eversource and NiSource will mutually
18 agree on a list of detailed services to be provided and prices for each such service.

1 **Q. Has Eversource engaged any outside consultants to assist with the transition**
2 **process?**

3 A. Yes. Eversource has engaged PricewaterhouseCoopers LLP (“PWC”) to assist
4 both companies in planning and coordinating transaction-related integration
5 activities. PWC is acting as the overall facilitator for transition and integration,
6 guiding the dialogue between NiSource and Eversource, coordinating work plans,
7 and providing subject matter expertise from prior integrations. Eversource is
8 engaging additional consulting expertise to assist in the transition of specific
9 functional areas, which are discussed in more detail below.

10 **Q. Would you please provide more specific detail regarding the transition**
11 **activities you expect in the functional areas of operations and customer**
12 **service?**

13 A. Yes, in the sections that follow we provide more detail regarding the planned
14 transition activities and timing, as well as the expected structure of operations on
15 Day 1 of the transaction.

16 **A. Operations**

17 **Q. Mr. Akley, this testimony states above that that some activities will become**
18 **subject to Eversource’s direct oversight and control on Day 1 and others will**
19 **take longer to transition. What operations do you expect Eversource will**
20 **assume on Day 1?**

21 A. As stated above, Eversource expects to overlay the Bay State Gas organizational
22 structure with personnel and additional support from the NSTAR Gas Operations
23 management group as of Day 1. Bay State Gas personnel will continue to perform

1 portions of the day-to-day operations work, and the Bay State Gas personnel will
2 immediately begin reporting to the NSTAR Gas management team through a chain
3 of command that will be organized based on the NSTAR Gas model. To assure
4 that the NSTAR Gas organization has sufficient resources to take on additional
5 responsibility of oversight of the Bay State Gas system without sacrificing the high-
6 quality, safe and reliable service provided to NSTAR Gas customers, Eversource
7 expects that hiring may be required to back-stop the Eversource supervisory
8 personnel that will be tasked with overseeing EGMA operations post-closing.

9 **Q. Mr. Akley, are there some areas within Gas Operations that cannot be**
10 **transferred on Day 1 and that will require a more gradual transition?**

11 A. Yes. As discussed above, there are some areas that will require a more gradual
12 transition because the functions are thoroughly integrated with NiSource and will
13 require training and/or the transfer of complex IT systems, such as the Supervisory
14 Control and Data Acquisition (“SCADA”) system. These areas will be overseen
15 by Eversource management on Day 1 (as discussed above) but NiSource personnel
16 will continue to provide services through the TSA until the service are safely and
17 effectively transitioned to Eversource.

1 **Q. Mr. Akley, would you please provide a specific example of a transition area in**
2 **Gas Operations that will need to be phased-in over time?**

3 Yes. The Gas Control and Dispatch Center is the nerve center of any natural gas
4 distribution network and as such, it is a high priority for transition, but it must be
5 done systematically and deliberately to ensure a safe and successful transfer.

6 **Q. Please elaborate on your expectations regarding the transition of the Gas**
7 **Control and Dispatch function?**

8 A. As I discussed above, the Eversource Gas Control and Dispatch Center is currently
9 operated out of Southborough, Massachusetts. The Bay State Gas system,
10 including the SCADA system, is currently operated and dispatched out of
11 Columbus, Ohio by NCSC employees. Under federal regulations, all natural gas
12 system operators (subject to exceptions based on the number of services) are
13 required to have a Control Room Management Plan (“CRM”). 49 CFR § 192.631.
14 The federal regulations prescribe extensive safety and operational requirements for
15 controllers and control rooms that remotely monitor, and control regulated gas
16 pipelines. Both Bay State Gas and NSTAR Gas have CRMs in place and each
17 CRM is uniquely tailored to the system to which the CRM applies.²

18 Eversource cannot relocate the NiSource Gas Control and Dispatch center to
19 Massachusetts on Day 1. The controllers located in Columbus, Ohio are NCSC

² The state or location of the control room operating regulated pipeline facilities does not determine the applicability of the CRM regulation. 49 CFR § 192.631(a).

1 employees and they are currently the only personnel qualified to operate the Bay
2 State Gas system pursuant to the applicable CRM. Therefore, Eversource and
3 NiSource will need to work together to transfer the operator knowledge that is
4 specific to the Bay State Gas system and to train NSTAR Gas personnel to operate
5 the Bay State Gas system. Accordingly, under the TSA, the Bay State Gas CRM
6 will need to remain in place and NCSC personnel will continue to operate the Bay
7 State Gas distribution system until it can be safely transitioned to Eversource.

8 **Q. What is your plan for transferring knowledge from NiSource operators to**
9 **Eversource?**

10 A. The importance of hands-on training in this area cannot be stressed enough—
11 employees must be exposed to operating conditions, so they are prepared to respond
12 when they are in control of the system and when circumstances occur on the system.
13 Eversource plans to temporarily relocate experienced personnel, who are already
14 trained on the NSTAR Gas operations, standards, and protocols, to the Bay State
15 Gas Dispatch and Control Center in Columbus, Ohio. The Eversource team will
16 work collaboratively with the controllers and supervisors in the Bay State Gas
17 Dispatch and Control Center to train and learn first-hand how to operate the Bay
18 State Gas system.

1 **Q. How long do you expect the transition of Gas Control and Dispatch from**
2 **NiSource to Eversource to take?**

3 A. For the transfer of knowledge to be most successful, the Eversource team should
4 ideally have the opportunity to train during a winter heating season when demand
5 for natural gas service is at its highest; operating conditions are at their most
6 complex; and the need for efficient and reliable gas flow is at its zenith. This is one
7 of the reasons that Eversource is seeking the Department's approval of the proposed
8 transaction by September 30, 2020. If Eversource is able to conduct this training
9 and learning transfer beginning November 1, 2020, then Eversource is better
10 situated to take full control of the Bay State Gas system at the earliest possible
11 point.

12 **B. Customer Service**

13 **Q. Ms. Conner, Mr. Akley discussed overlaying Eversource's Gas Operations**
14 **management structure on the Bay State Gas operations on Day 1, do you**
15 **anticipate a similar approach on the Customer Service side?**

16 A. Bay State Gas customer service personnel will continue to perform portions of the
17 day-to-day customer service work; however, those personnel will immediately
18 begin reporting to the Eversource customer operations management team, through
19 a chain of command that will be organized based on the Eversource customer
20 operations model. For example, I would expect that the Bay State Gas back-office
21 billing team could be transferred to the oversight of Eversource's Director of
22 Billing, Meter Data Management and Business Planning relatively soon after

1 closing. As another example, I would expect that the Bay State Gas energy
2 efficiency team could be integrated into the Eversource energy efficiency group
3 almost immediately.

4 **Q. Ms. Conner, do you see a particular opportunity to achieve benefits with**
5 **respect to integrating the Bay State Gas energy efficiency program with**
6 **Eversource's program?**

7 A. Yes, absolutely. Energy efficiency is a critical component of Eversource's
8 sustainability vision and the combination of the NSTAR Gas and Bay State Gas
9 energy efficiency teams will generate many potential opportunities and benefits.
10 Some of the opportunities that we have already identified include:

- 11 • Offering a more seamless customer experience where electric and gas services
12 are now furnished by the same provider (i.e., Eversource Energy);
- 13 • Leveraging Eversource's successful go-to-market strategy of using dedicated
14 energy efficiency account executives for large customers to help generate
15 additional savings;
- 16 • Utilizing existing relationships with customers that have operations in other
17 places within the Eversource service territory to drive additional projects;
- 18 • Leveraging Eversource's best-in-class energy efficiency data analytics
19 organization in the Bay State Gas service territory;
- 20 • Refining customer segmentation, targeted marketing and developing customer
21 lists, which in turn should help increase savings; and
- 22 • Leveraging Eversource's specialized channel (e.g., retailers, distributors, and
23 manufacturer) expertise, which allows for cost-effective deployment at scale,
24 and can help reach market niches that are challenging to acquire through typical
25 downstream approaches.

1 **Q. Ms. Conner, what are some of the longer lead time items that you expect will**
2 **require a transition period beyond Day 1?**

3 A. The transition of CIS is among the longest lead time items because it is a complex
4 information system; it is fully integrated with the main system operated by
5 NiSource for all of its operating affiliates, and it will require a considerable amount
6 of training to transfer. Consequently, systems integration will not occur as of Day
7 1, but instead will need to be facilitated through the TSA until such time as this
8 complex information system can be transitioned to Eversource.

9 **Q. Ms. Conner, has Eversource brought in any outside consulting expertise to**
10 **assist with the transition in the Customer Service area?**

11 A. Yes. Eversource has engaged Ernst & Young to assist with the transition of the
12 CIS and Forrester Research, Inc. to assist with the digital customer experience
13 transition.

14 **Q. Ms. Conner, are there specific functional areas that will require a more**
15 **gradual transition with services provided by Bay State Gas through the TSA**
16 **after Day 1?**

17 A. Yes. During the transition, every customer transaction will need to be carefully
18 coordinated between Eversource and NiSource to assure that the presentation of
19 information is seamless to customers. The specific key functional areas that will
20 require a more gradual transition beyond Day 1 include the Call Center, Billing,
21 and Meter Reading/Credit & Collections.

1 **Q. Would you please provide an example of the challenges that give rise to the**
2 **need for a more gradual transition in certain Customer Service areas?**

3 A. The J.D. Power Customer Satisfaction Index is made up of six weighted factors,
4 one of which is Billing & Payment. The Billing & Payment factor accounts for 21
5 percent of the gas utility residential customer satisfaction index and is therefore a
6 significant factor in overall customer satisfaction. Therefore, it is critical that
7 Eversource gets the billing and payments processes right, both for existing
8 customers and its new EGMA customers.

9 The most significant challenge, as noted above, is the effective transition of all of
10 Bay State Gas customers to Eversource's CIS platform. This is a complex
11 undertaking that will involve careful coordination with NiSource. Additionally, as
12 noted above, there will be significant challenges in transitioning Bay State Gas
13 customers to an Eversource web experience.

14 There are also unique circumstances that must be taken into account in the billing
15 area and it will take time beyond Day 1 to ensure that the challenges are
16 appropriately addressed. It will also require NiSource to assist in performing these
17 services pursuant to the TSA until the services are transitioned. For example, Bay
18 State Gas currently relies on NiSource for bill printing, which is performed out of
19 the Columbus, Ohio facility. Eversource is currently working with Bay State Gas
20 to transition bill printing from NiSource to Eversource, but in the interim, NiSource

1 will continue to produce the electronic print files, which are created by the
2 NiSource billing system.

3 **Q. Are there other examples of challenges that give rise to the need for a more**
4 **gradual transition in certain functional areas?**

5 A. Yes. For example, aspects of meter reading will continue to be performed by
6 NiSource pursuant to the TSA due to complicating factors that will necessitate an
7 extended transition period. Specifically, the NiSource Field Collection System
8 (“FCS”) for meter reading is in the process of an upgrade. The FCS is being
9 upgraded from Mobile Interface 3.8.0 to Itron Mobile App version 3.1, a tool for
10 collecting data and performing other field activities. The Itron Mobile app runs on
11 smart phones, tablets and laptops.

12 The FCS is further complicated by an upgrade required on the equipment from
13 Windows 7 to Windows 10. In Eversource’s experience, the Windows upgrade is
14 complex and time consuming and is best managed by resources familiar with the
15 equipment and software.

16 Another example are the Bay State Gas meter reading routes, which are currently
17 centrally planned out of Columbus, Ohio, utilizing the RouteSmart application.
18 The transition of route planning from NiSource to Eversource will take time
19 because Eversource will need to learn how NiSource utilizes RouteSmart and
20 determine how to integrate Bay State Gas meter reading routes with the Eversource

1 routes in an efficient manner—including reading meters of dual service customers
2 (Bay State Gas and Eversource electric) on the same day, which will allow
3 Eversource to send both bills in one envelope for a much better customer
4 experience.

5 As a third example, NiSource currently uses a vendor in Pennsylvania to process
6 check remittance. Eversource manages check remittance locally through Century
7 Bank of Massachusetts (“Century Bank”) and is working toward the goal of
8 transitioning the Bay State Gas check payment processing to Century Bank for Day
9 1. However, all of the other payment processing functions, such as electronic check
10 and credit payments on the web or by the Integrated Voice Response system, will
11 take additional time to transition to EGMA because these functions are integrated
12 with the Bay State Gas website and CIS and/or require transitioning vendor
13 contracts. The in-person payments offered by Bay State Gas at local stores will
14 also require Eversource to assume vendor contracts. Accordingly, the TSA will
15 cover the provision of these particular services in the interim until they can be fully
16 transitioned to Eversource.

17 **VI. QUALITATIVE NET BENEFITS**

18 **Q. Will the transaction have a positive impact on long-term strategies that will**
19 **assure a reliable and cost-effective energy delivery system?**

20 A. Yes. Most certainly, the transaction will have a positive effect on the provision of
21 reliable and cost-effective gas service to Bay State Gas customers and will sustain

1 the quality of service provided to these customers. The key to maintaining a safe
2 and reliable system is the consistent and sufficient investment of capital by utility
3 managers. Eversource, with its strong financial profile, operating expertise and
4 local presence will continue making the necessary investments to ensure safe and
5 reliable performance of the Bay State Gas distribution system.

6 **Q. Does Eversource have specific proposals in relation to long-term strategies to**
7 **assure a reliable and cost-effective energy delivery system?**

8 A. Yes, there are three areas of commitments that Eversource has developed to meet
9 this component of the Department's net benefits standard. These three areas of
10 commitment are: (1) a commitment to assess and improve operational practices;
11 (2) a commitment to assess the long-term capital work requirements and resource
12 needs through an overall Safety Assessment; and (3) a commitment to new service-
13 quality metrics to be implemented following the transaction.

14 **Q. What is Eversource's proposal with respect to its commitment to assess and**
15 **improve operational practices?**

16 A. As discussed above, Eversource has engaged TRC to assist in conducting
17 assessments in several operational areas associated with the integration of Bay State
18 Gas operating assets into Eversource's local gas operations. TRC's engineers have
19 substantial expertise to assist Eversource in assessing the Bay State Gas operations
20 and planning strategies to assure safety, operational reliability and regulatory

1 compliance. Work with TRC has just started, however, Eversource and TRC have
2 defined an initial scope of work in three segments:

3 **(1) Maps & Records Assessment**

4 a. Document process to update and maintain maps/records including
5 process flow, timeliness, who is involved, source documents used,
6 process to capture field generated updates/revisions and systems
7 utilized, identify source of asset records that determine current
8 system configuration and compliance maintenance programs.

9 b. Overall assessment of Bay State Gas maps and records to capture by
10 asset family (Gate/Regulator Stations, Transmission Pipelines,
11 Distribution Mains, Distribution Services, Customer Assets) to
12 understand accuracy and completeness, electronic versus paper
13 records, availability of latest information to field crews and
14 contractors. Review historical damages and those related to maps
15 and records to assess any areas of concern, validate completion of
16 NTSB recommendation related to maps and records. Identify
17 overall areas of weakness, risks, gaps, concerns and any ongoing
18 initiatives to address.

19 c. Overview information provided in work packages to perform
20 maintenance and construction activities on system.

21 **(2) Standards/Procedure Review**

22 a. Review of Bay State Gas construction standards and operating
23 procedures.

24 i. Provide overview of structure/format of Bay State Gas and
25 match to Eversource equivalent.

26 ii. Provide details of the Bay State Gas process to
27 review/update Construction Standards and Operating
28 Procedures (frequency, who is engaged, timeframes, etc.).

29 iii. Identify means that Bay State Gas internal and contractor
30 resources have access to latest standards and procedures.

- 1 iv. Compare Bay State Gas to Eversource, identify differences
2 between the two and document.
- 3 v. Validate Bay State Gas construction standards and operating
4 procedures meet or exceed all applicable federal and
5 Massachusetts requirements.
- 6 vi. Identify any concerns, priority items to address.
- 7 b. Provide details of current Bay State Gas live gas work procedures
8 covering written procedures (who writes, qualifications, specifics of
9 procedure structure used, how approved), engineering and
10 constructability reviews, PE sign-off, drawings utilized, work
11 packages, coordination with Gas Control and System Planning,
12 authorization to work process, real time system awareness,
13 procedure oversight and documentation.

14 **(3) PSMS**

- 15 a. Develop plan to integrate Bay State Gas safety management
16 program into Eversource’s program.
- 17 i. Details of gap analysis performed by Bay State Gas to date,
18 results and status of mitigation plans.
- 19 ii. Overview of QA/QC program in place and non-compliance
20 findings/actions. Plan to integrate and deploy program that
21 mirrors Eversource with internal and contractor crews.
- 22 iii. Bay State Gas “CAP” program summary, specific projects
23 and actions invested in since start-up of program.

24 Eversource anticipates that the process will be iterative, meaning that work plans
25 and schedules will change as knowledge is gained and more detail is known
26 regarding work that needs to be done. Therefore, it is expected that the schedules
27 and tasks within these three initial areas of work will be adjusted as work
28 progresses. Also, additional areas of work may be added as needed as overall
29 integration efforts progress.

1 Currently, there are 7-8 team members working on scoping out a work plan in each
2 of these areas. Ultimately, there will be three separate teams with potentially a total
3 of 15-20 team members to complete the work. The expectation is that this work
4 will take several months to complete. However, the current estimate is that work
5 will be completed by the end of third quarter 2020, coincident with the timing of
6 the transaction closing.

7 **Q. Would you please discuss Eversource's commitment to assess the long-term**
8 **capital work requirements and resource needs through an overall Safety**
9 **Assessment?**

10 A. Yes, as mentioned above, there are two elements of Eversource's proposal to
11 establish a capital cost recovery mechanism for non-GSEP capital investment
12 completed in the years 2021-2028. First, Eversource plans to conduct a system-
13 wide Safety Assessment and to prepare a long-term capital investment plan. The
14 Safety Assessment and refurbishment plan and associated capital investment
15 forecast would be submitted to the Department as part of the 2021 rate filing. The
16 Safety Assessment would identify the long-term work plan to rehabilitate Bay State
17 Gas's system, and with that work plan, Eversource will put forth an annual capital
18 forecast for the non-GREC and LNG/LPG capital investment needed to maintain
19 safety and reliability of the Eversource gas system (eight-year forecast for 2021
20 through 2028). The Department would review and approve this plan during the
21 2021 rate case.

1 In the Safety Assessment, Eversource will put forth a comprehensive safety plan
2 outlining actions Eversource is taking, and expects to take, to assure the safe
3 operation of Bay State Gas's system. The plan shall include, but not be limited to,
4 a detailed description of Eversource's actions to date and its planned future actions
5 to address safety-related issues identified by any Eversource assessment, Bay State
6 Gas assessment, company-sponsored third-party assessment, the Department, the
7 Federal Monitor established pursuant to the criminal plea agreement, the National
8 Transportation Safety Board, PHMSA, the Dynamic Risk Statewide Pipeline
9 Safety Assessment, and any specific Dynamic Risk assessment for Bay State Gas.

10 In addition to required capital investments, safety-related issues will include, but
11 not be limited to the following practices/procedures: maps and records, pipeline
12 safety practices, standards and procedures, training and operator qualification
13 practices, engineering and design, construction, leak management, safety
14 management systems, and any safety culture practices. Regarding the adoption and
15 implementation of API RP 1173 (PSMS), Eversource will incorporate the PSMS
16 into its operations; provide, at 6-month intervals, updates regarding its
17 implementation of PSMS, including (a) its program maturity level according to the
18 PSMS Maturity Model and the basis of any maturity level assessment; and (b) any
19 and all gap analysis performed pursuant to Section 7.2 (Data Gathering) of API RP
20 1173.

1 In particular, Eversource is planning to leverage the Dynamic Risk Construction
2 Assessment final report for evaluating and assessing the safety, adequacy, integrity,
3 and quality of the pipeline restoration work completed as part of the Greater
4 Lawrence Incident.

5 **Q. Would you please discuss Eversource’s commitment to new service-quality**
6 **metrics to be implemented following the transaction.**

7 A. Yes. There are two components to the Service Quality Metrics & Pipeline Safety
8 Compliance framework that Eversource is planning to implement for the Bay State
9 Gas system: (1) Pipeline Safety Compliance; and (2) Service Quality Metrics.

10 Pipeline Safety Compliance

11 Eversource is expecting that the Department’s Pipeline Safety Division (the
12 “Division”) will (and should) continue its ramped-up inspection and enforcement
13 activities on the Bay State Gas system, following the sale of the operating assets to
14 Eversource. Eversource is expecting to complete rigorous system assessments and,
15 upon closing, to institute an organized, intensive work plan to raise safety and
16 compliance on the Bay State Gas system to be consistent with the NSTAR Gas
17 system. However, Eversource also expects that it will take several years to
18 accomplish this objective fully and completely.

19 The Division will identify areas of non-compliance on the Bay State Gas system
20 that are legacy items, meaning that the work in question or condition in non-

1 compliance is attributable to work processes and practices in place prior to the
2 transaction, under the control of Bay State Gas. In those cases, the Division would
3 follow its normal practice of inquiries of fact, and issuance of Exit Letters and
4 potential Notice of Probable Violations (“NOPV”) to Eversource as the new owner
5 of the Bay State Gas operating assets. Nothing would change in terms of the
6 Department’s process or authority to pursue enforcement of the applicable pipeline
7 safety regulations and requirements.

8 However, from the date of closing, where a NOPV is issued in relation to work
9 performed, or work processes employed on the Bay State Gas system, Eversource
10 would have the opportunity—and responsibility—of proving to the Department
11 that the violation in question: (1) pertains to work performed, or work processes
12 employed, prior to the date of closing; and (2) is not the product of any work
13 performed or work practices undertaken by Eversource since the date of closing. If
14 this demonstration is made to the Division, the Division would waive the penalty.
15 However, all other compliance aspects of the NOPV would continue to apply, i.e.,
16 the condition of non-compliance must be appropriately addressed by Eversource.
17 Consent decrees pertaining to issued NOPVs typically involve numerous items
18 other than the monetary penalty (such as process changes) to address the area of
19 non-compliance and assure that the non-compliance is “cured” on a going forward
20 basis. Eversource would remain subject to the non-monetary aspects of all NOPVs

1 issued by the Division in relation to the Bay State Gas system; only the penalty
2 amount would be waived.

3 This waiver of penalties for pre-existing conditions would apply for a period of five
4 years (from the date of closing), which is the period that Eversource expects will
5 be needed to fully transition the Bay State Gas system to the Eversource platform.
6 The waiver of penalties would not in any way apply to the NSTAR Gas system,
7 which would remain subject to the Department's full authority for pipeline safety
8 and compliance, including penalty assessments.

9 Service Quality Metrics

10 Eversource is interested in identifying specific service-quality improvements that
11 could be demonstrated over time. At a minimum, Eversource would agree to track
12 and report on the same metrics that it is reporting for NSTAR Gas in D.P.U. 19-
13 120, as long as the data is readily available. Baselines and goals appropriate to Bay
14 State Gas would need to be established for the Bay State Gas system, as the
15 baselines and goals presented by NSTAR Gas Company in D.P.U. 19-120, may or
16 may not be appropriate for the Bay State Gas system, and certainly Eversource
17 would like to show improvement over time in as many ways as reasonably possible.
18 However, the metrics would be as follows:

SAFETY AND RELIABILITY	
Scorecard Metric	Summary Description
Emergency Response Rate Within 45 Minutes	This metric would measure the elapsed time from when a report of a gas odor call is received and when a Company representative arrives at the scene. Eversource will commit to a target of a X-percent response within 45 minutes, which will exceed the Department’s current requirement.
Total Damages Per 1,000 Tickets	This metric would measure the ratio of the number of times the NSTAR Gas distribution facilities are damaged per 1,000 tickets. Eversource will commit to a X-percent improvement over the baseline by Year Five following Closing.
DART Rate	This metric would measure the number of cases resulting in Days Away from Work, Restricted Work Activity, and/or Job Transfer (“DART”) expressed as the number of events per 200,000 hours worked. Eversource will commit to a X-percent improvement over the baseline by Year Five following Closing.
Total Grade 2 Leaks Older than 9 Months	This metric would measure the number of Open Grade 2 Leaks older than nine months recorded at the end of the calendar year. Eversource will commit to complete X percent of Grade 2 leaks in 9 months or less (three months faster than required).
PSMS Implementation	This metric would evaluate the annual implementation of the Pipeline Safety Management System (“PSMS”), as measured by a third-party assessment.

CUSTOMER SATISFACTION & ENGAGEMENT	
Scorecard Metric	Summary Description
J.D. Power Survey (Safety & Reliability Factor)	This metric would measure improvement in the Safety & Reliability factor, as assessed by J.D. Power. Eversource will commit to a designated improvement in the Safety & Reliability score by Year Five following Closing.
Web Satisfaction Survey	This metric would measure improvement in customer satisfaction with on-line tools. Eversource will commit to increase this rating to a designated score by Year Five following Closing.
Digital Engagement	This metric would measure digital engagement with customers via self-service and alert notifications. Eversource will commit to increase the ratio of digital transactions to total transactions to a designated percentage.
Gas Emergency Calls - Average Speed of Answer	This metric would measure improvement in the average speed of answer of Gas Emergency Calls. Eversource would commit to maintain 10 seconds as the average speed of answer for gas emergency calls.

EMISSION REDUCTIONS	
Scorecard Metric	Summary Description
Methane Emissions	This metric would measure progress in emission reductions, in metric tons, associated with replacement of aged distribution infrastructure through the GSEP program. Eversource would commit to reduce methane emissions by a designated percentage from the baseline by Year Five following Closing.
Grade 3 Environmentally Significant Leaks	This metric would measure the repair of environmentally significant Grade 3 leaks within 12 months of designation. Eversource would commit to repair all non-GSEP environmentally significant Grade 3 leaks within 12 months of designation, which exceeds the Department's regulations.

1 In addition, Eversource anticipates that a metric could be established around leak
2 rates. Eversource is aware that, as part of the Dynamic Risk Statewide Assessment,
3 the Bay State Gas system was identified as one of two systems in the
4 Commonwealth with a recently increasing leak rate despite the implementation of

1 GSEP (see, e.g., Appendix B, page B-20). Therefore, Eversource is willing to work
2 with the Department, the Office of the Attorney General and DOER to establish a
3 metric that would track leak rates and promote improvements over a “glide path”
4 similar to the approach the Department instituted for electric companies on SAIDI
5 and SAIFI, which is designed to tighten performance in relation to the historical
6 benchmark over a 10-year period. The “glide path” approach could be applied
7 coincident with the capital upgrades that will be necessary to address leak rates and
8 could be designed to promote improvements in the leak rate over time.

9 **Q. Does Eversource anticipate that benefits will arise with respect to the delivery**
10 **of Energy Efficiency services?**

11 A. Yes. Eversource anticipates improvements in energy efficiency offerings to Bay
12 State Gas customers, including new offerings such as a gas demand response
13 program similar to what is proposed in NSTAR Gas’s current rate proceeding
14 (D.P.U. 19-120). With Eversource's resources and facilities located in close
15 proximity to Columbia Gas’s customer homes and businesses, Eversource expects
16 to be able to work collaboratively with energy efficiency stakeholders to
17 incorporate best industry practices and bring benefits to customers. Eversource is
18 at the very preliminary stage of its work to assess opportunities to integrated the
19 NSTAR Gas energy efficiency program with the Bay State Gas energy efficiency
20 program, however, Eversource is fully committed to following through on
21 commitments to customers in the Merrimack Valley and Bay State Gas
22 commitments on the Three-Year Plan and Term Sheet. In light of the COVID-19

1 pandemic and the severe impact it is having on customers, it is likely that there will
2 be a need to revisit the goals and outcomes that are realistic for the current three-
3 year plan; however, Eversource is committed to making progress on behalf of the
4 Bay State Gas system.

5 As Eversource moves forward with planned integration of the Bay State Gas
6 program, there are specific considerations that factor into the net benefits calculus:

- 7 • Eversource has a highly skilled energy efficiency staff with deep knowledge
8 of the Massachusetts effort and this will help us to tackle energy efficiency
9 in the Bay State Gas footprint with resources and enthusiasm.
- 10 • Eversource expects that it can conduct faster contracting processes locally
11 and that vendors will see it as a beneficial change to work with Eversource
12 given the familiarity that vendors have with Eversource.
- 13 • Eversource is planning to leverage its successful go-to-market strategy of
14 using dedicated energy efficiency account executives for large customers to
15 help generate incremental savings.
- 16 • Eversource has developed a best-in-class energy efficiency data analytics
17 organization, which we will apply to the Bay State Gas service territory.
18 This will help with customer segmentation, targeted marketing, and
19 developing customer lists, which in turn should help increase savings.

20 So, all in all, there is no doubt that Eversource is positioned to achieve more for
21 Bay State Gas customers than Bay State Gas would have been able to achieve on
22 its own for energy efficiency. As a result, the acquisition is an extremely positive
23 step for Bay State Gas customers and the Massachusetts energy efficiency goals.

1 **Q. Will the transaction result in any anticipated interruptions in service or**
2 **negative customer service impacts?**

3 A. No, the transaction is designed to be seamless to Bay State Gas customers and will
4 not cause service interruptions or customer service impacts.

5 **VII. CONCLUSION**

6 **Q. Does this conclude your testimony?**

7 A. Yes, it does.

Eversource Energy, NiSource Inc.
Eversource Gas Company of Massachusetts
Bay State Gas Company d/b/a Columbia Gas of Massachusetts
D.P.U. 20-59
Exhibit JP-DPH-1
July 2, 2020
H.O. Sarah Spruce

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Petition of Eversource Energy, NiSource Inc.,)
Eversource Gas Company of Massachusetts) D.P.U. 20-59
and Bay State Gas Company d/b/a Columbia)
Gas of Massachusetts for Approval of)
Purchase and Sale of Assets Pursuant to)
General Laws Chapter 164, §§ 94 and 96)

DIRECT TESTIMONY OF

DOUGLAS P. HORTON

On behalf of

Joint Petitioners

**Eversource Energy, NiSource Inc.
Eversource Gas Company of Massachusetts
Bay State Gas Company d/b/a Columbia Gas of Massachusetts**

July 2, 2020

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**DIRECT TESTIMONY OF
DOUGLAS P. HORTON**

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Douglas P. Horton. My business address is 247 Station Drive,
4 Westwood, Massachusetts 02090.

5 **Q. By whom are you employed and in what position?**

6 A. I am the Vice President, Distribution Rates and Regulatory Requirements, for
7 Eversource Energy Service Company (“ESC” or “Eversource Service Company”).
8 ESC provides centralized services to the natural gas and electric operating
9 subsidiaries of Eversource Energy (“Eversource Energy” or “Eversource”),
10 including NSTAR Gas Company d/b/a Eversource Energy (“NSTAR Gas”). In this
11 role, I have overall responsibility for rate and rate-related strategy, preparation and
12 presentation of regulatory filings made by the Eversource operating affiliates to
13 their respective regulatory commissions in Massachusetts, Connecticut and New
14 Hampshire.

15 **Q. Please describe your educational background and employment experience.**

16 A. I graduated from Bentley College (now Bentley University) in Waltham,
17 Massachusetts in 2003 with a Bachelor of Science degree. In 2007, I graduated

1 from the Bentley University McCallum Graduate School of Business with a Master
2 of Business Administration. I was hired by NSTAR as a Senior Financial Planning
3 Analyst in August 2007 and promoted to Project Manager, Smart Grid, in March,
4 2010. In 2012, I was promoted to Manager, Revenue Requirements, Massachusetts
5 and subsequently was promoted to Director, Revenue Requirements,
6 Massachusetts, in February 2015. I was promoted to my current role of Vice
7 President, Distribution Rates and Regulatory Requirements, in December 2018.

8 **Q. Have you previously testified in any formal hearings before regulatory bodies?**

9 A. Yes. I have sponsored testimony before the Department of Public Utilities (the
10 “Department”) in several dockets. I testified in the two most recent base-rate
11 proceedings for NSTAR Gas in NSTAR Gas Company, D.P.U. 14-150 (2015) and
12 D.P.U. 19-120 (currently pending). I also testified on behalf of NSTAR Electric
13 Company and Western Massachusetts Electric Company in the general distribution
14 rate proceeding conducted by the Department in D.P.U. 17-05, and on behalf of
15 NSTAR Gas in D.P.U. 14-64 in relation to the approval of a gas service agreement
16 between Hopkinton LNG Corporation d/b/a Eversource Energy (“HOPCO”) and
17 NSTAR Gas, as well as in the D.P.U. 17-99 HOPCO Demand Charge filing
18 (effective November 1, 2017); the D.P.U. 18-56 HOPCO Demand Charge
19 (effective November 1, 2018); and the D.P.U. 19-61 HOPCO Demand Charge
20 (effective November 1, 2019), among other dockets.

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to support Eversource's acquisition of the assets¹
3 of Bay State Gas Company ("Bay State Gas") from NiSource Inc. ("NiSource")
4 through a new operating subsidiary, Eversource Gas Company of Massachusetts
5 ("EGMA" or "Eversource Gas") (with Eversource, collectively, the "Joint
6 Petitioners").² Bay State Gas is currently a wholly owned operating subsidiary of
7 NiSource. Eversource's proposed acquisition of the Bay State Gas assets
8 constitutes a change in control under G.L. c. 164, § 96 ("Section 96").

9 My testimony presents the demonstration that the proposed transaction is in the
10 public interest and should be approved by the Department. In support of the
11 petition, my testimony provides the following: (1) a description of transaction and
12 the steps that will be taken upon closing to incorporate the Bay State Gas assets
13 into the Eversource organization; and (2) provides the net benefits analysis required
14 under Massachusetts law and precedent to obtain the Department's approval under
15 Section 96. As I discuss below, the net benefits analysis shows that customers will
16 be the recipients of quantifiable net benefits totaling approximately \$281 million

¹ On February 26, 2020, Eversource, NiSource and Bay State Gas executed an Asset Purchase Agreement ("APA"), setting the price, terms and conditions by which Eversource shall acquire the Purchased Assets, as defined in Section 2.1(a) of the APA. The APA is provided as Exhibit JP-SA-2, as part of the Joint Petitioners' petition to the Department.

² EGMA is a wholly owned subsidiary of Eversource incorporated in Massachusetts on May 15, 2020, pursuant to G.L. c. 164, § 1 to own and operate the business of Bay State Gas.

1 over the next 10 years. This level of monetary benefit would not be available in
2 the absence of the transaction and will represent a unique opportunity for Bay State
3 Gas customers.

4 **Q. Are you presenting any exhibits in support of your testimony?**

5 A. Yes. I am presenting the following exhibits as part of my testimony:

Exhibit	Purpose
Exhibit JP-DPH-1	Testimony of Douglas P. Horton
Exhibit JP-DPH-2	Illustrative Rate Base Computation
Exhibit JP-DPH-3	Illustrative Rate Base Offset Computation
Exhibit JP-DPH-4	Net Benefits Analysis (Quantitative Benefits)

6 **Q. How is your testimony organized?**

7 A. My testimony is organized into the following sections: Section I is the introduction.
8 Section II provides a description of Eversource and Bay State Gas and describes
9 the steps that Eversource will take to acquire the Bay State Gas assets and
10 incorporate those assets into the Eversource organization. Section III provides a
11 description of the 10-year rate stabilization plan that Eversource is proposing for
12 review and approval under G.L. c. 164, § 94, as part of this proceeding. Section IV
13 provides a description of the net benefit analysis required under G.L. c. 164, § 96.
14 Section V provides a description of the reporting commitments that Eversource will
15 meet following the closing of the transaction to keep the Department and other
16 important stakeholders apprised of Eversource's progress in integrating the Bay

1 State Gas operations to the Eversource organization. Section VI provides the
2 conclusion to my testimony.

3 **II. DESCRIPTION OF THE TRANSACTION**

4 **Q. Please provide a brief description of Eversource and its natural gas operations**
5 **in Massachusetts.**

6 A. Eversource is a voluntary association and Massachusetts business trust with dual
7 headquarters in Boston, Massachusetts and Hartford, Connecticut. Eversource is a
8 public utility holding company under the Public Utility Holding Company Act of
9 2005. Eversource is engaged primarily in the electric, natural gas and water
10 distribution business through its wholly-owned utility subsidiaries, including:
11 NSTAR Gas Company (“NSTAR Gas”), NSTAR Electric Company, The
12 Connecticut Light and Power Company, Yankee Gas Services Company (“Yankee
13 Gas”), Public Service Company of New Hampshire, and Eversource Aquarion
14 Holdings, Inc. (a utility holding company that owns three, individual regulated
15 water utility subsidiaries). Together, the Eversource companies serve
16 approximately four million electric, natural gas and water customers in
17 Connecticut, Massachusetts and New Hampshire.

18 In Massachusetts, the Eversource gas distribution business is conducted through
19 NSTAR Gas, operating as a wholly owned subsidiary of Yankee Energy System,
20 Inc. (“Yankee Energy”), which in turn is a wholly owned subsidiary of Eversource.

1 NSTAR Gas serves approximately 296,000 customers in 51 communities in central
2 and eastern Massachusetts. Some of the larger communities served by NSTAR Gas
3 include Cambridge, New Bedford, Plymouth, Worcester, Framingham, Dedham
4 and the Hyde Park area of Boston.

5 NSTAR Gas does not own on-system peaking facilities, but instead receives winter
6 peaking services from Hopkinton LNG Corp. (“HOPCO”) pursuant to a long-term
7 Gas Service Agreement (“GSA”), approved by the Department in NSTAR Gas
8 Company, D.P.U. 14-64 (2015). HOPCO is a wholly owned subsidiary of Yankee
9 Energy. HOPCO owns a liquefied natural gas (“LNG”) storage and production
10 facility in Hopkinton, Massachusetts consisting of vaporization plant and three
11 above-ground cryogenic storage tanks having an aggregate capacity for LNG of 3.0
12 Bcf. HOPCO also owns and operates peaking facilities in Acushnet, Massachusetts
13 consisting of storage capacity of 0.5 Bcf and total vaporization capacity of 0.21 Bcf
14 per day.

15 **Q. Please provide a brief description of Bay State Gas.**

16 A. To my knowledge, Bay State Gas is a regulated public utility incorporated in
17 Massachusetts as a “gas company” in 1974, with its operations arising through the
18 merger of local gas works, such as Springfield Gas Light Company, the Brockton
19 Taunton Gas Company, and Lawrence Gas Company. Its principal administrative
20 and operating office is currently located at 4 Technology Drive, Westborough,

1 Massachusetts 01581. Currently, Bay State Gas operates as one of seven natural
2 gas distribution companies within the NiSource organization.

3 Bay State Gas currently provides retail natural gas distribution service to
4 approximately 321,000 residential, commercial and industrial customers in three
5 divisions geographically centered in Springfield, Brockton, and Lawrence.
6 Although the three Bay State Gas distribution service areas are not adjacent to each
7 other, Bay State Gas operates on a centralized and integrated basis.

8 **Q. What is the structure of the transaction from the Eversource perspective?**

9 A. On February 26, 2020, Eversource, NiSource and Bay State Gas executed the Asset
10 Purchase Agreement (“APA”), setting the price, terms and conditions by which
11 Eversource shall acquire the Purchased Assets, as defined in Section 2.1(a) of the
12 APA. The APA is provided as Exhibit JP-SA-2, as part of the Joint Petitioners’
13 petition to the Department.

14 As stated in the APA, NiSource and Bay State Gas have agreed to sell to
15 Eversource, and Eversource has agreed to purchase, with certain additions and
16 exceptions: (1) substantially all of the operating assets of Bay State Gas; and (2) all
17 of the assets held by any of Bay State Gas’s affiliates that primarily relate to the
18 business of storing, distributing or transporting natural gas to residential,
19 commercial and industrial customers in Massachusetts, as conducted by Bay State

1 Gas (the “Purchased Assets”). As part of the agreement, Eversource will assume
2 responsibility for liabilities of Bay State Gas and its affiliates, with the exception
3 of liabilities related to the Greater Lawrence incident (the “Greater Lawrence
4 Incident”), as defined in Section 2.1(c) of the APA (the “Assumed Liabilities”).
5 The Asset Purchase Agreement provides for a purchase price of \$1.1 billion in cash,
6 subject to certain defined adjustments made as of the closing date (Section 3.1).

7 Upon the Department’s approval of the transaction, Eversource will commence the
8 process to acquire the Bay State Gas assets through a new corporate entity formed
9 by Eversource (EGMA) pursuant to G.L. c. 164, § 1, which will be subject to the
10 Department’s plenary jurisdiction under G.L. c. 164. EGMA will be a subsidiary
11 of Yankee Energy, which is a wholly owned subsidiary of Eversource. This
12 organizational structure will align with the current corporate structure wherein
13 NSTAR Gas and Yankee Gas are operating as wholly owned subsidiaries of
14 Yankee Energy. Prior to the closing, Eversource will assign its rights in the APA
15 to EGMA, as allowed and contemplated in the APA. Upon closing, Eversource
16 Gas will take title to the Purchased Assets and will bear responsibility for the
17 Assumed Liabilities. Eversource Gas will continue to operate as “Columbia Gas
18 of Massachusetts” for a period of up to one year following the closing date to allow
19 time for Eversource to prepare for a transition in the naming convention from
20 “Columbia Gas of Massachusetts” to “Eversource Gas Company.”

1 On the closing date, Bay State Gas customers will become Eversource customers
2 under the same rate schedules and terms of service as currently exist for Bay State
3 Gas customers. Eversource is not seeking any changes to the rates charged to Bay
4 State Gas customers that would take effect as of the date of closing. Except to
5 incorporate Eversource Gas into the Eversource corporate organization, the
6 transaction will result in no changes to Eversource's existing organizational
7 structure.

8 Moreover, approval of the proposed acquisition will not constitute approval of the
9 consolidation of the separate operating companies of NSTAR Gas and Eversource
10 Gas. NSTAR Gas and Eversource Gas will remain legally and functionally separate
11 companies and independently subject to the Department's jurisdiction under G.L.
12 c. 164, § 1 on and after the closing of the proposed transaction, and unless and until
13 separate authorization is obtained from the Department in future years to merge the
14 two entities under G.L. c. 164, § 96.

15 To support the Department's approval of the transaction, the Joint Petitioners are
16 hereby submitting a comprehensive proposal to the Department for approval of the
17 acquisition under G.L. c. 164, § 96, along with a 10-year rate stabilization plan for
18 review and approval under G.L. c. 164, § 94. The 10-year rate stabilization plan
19 fulfills all of the closing prerequisites of the APA, while simultaneously providing
20 customers with an estimated net benefit of \$281 million over the term of the rate

1 plan. The Joint Petitioners' specific proposals and quantification of net benefits is
2 discussed in greater detail below.

3 **III. DESCRIPTION OF THE RATE STABILIZATION PLAN**

4 **Q. Why is Eversource proposing to implement a rate stabilization plan following**
5 **the close of the transaction?**

6 A. There are two main reasons that implementation of a rate-stabilization plan is
7 necessary following the closing. First, Eversource's pre-acquisition assessment of
8 the Bay State Gas operations indicates that there is a substantial amount of work
9 that needs to be completed over the next several years to evaluate, design, plan and
10 reorganize the Bay State Gas operations and to raise the overall safety and
11 reliability of the system to co-exist with the Eversource operating platform. This
12 effort is critical to the public safety, but will require management commitment and
13 significant financial resources. Therefore, for Eversource to move forward with the
14 transaction, Eversource requires implementation of a rate plan to provide for the
15 necessary financial resources over a time frame that aligns with the schedule that
16 will be undertaken to complete necessary work. Eversource estimates that a work
17 schedule to raise the safety of the Bay State Gas system to align it with the NSTAR
18 Gas system will require a minimum of seven years to 10 years.

19 At the same time, customers should be the primary beneficiaries of the
20 opportunities that will arise from the combination of the Bay State Gas assets with

1 the Eversource platform, and this is the reason that the Department’s standard for
2 approval of transactions subject to G.L. c. 164, § 96 requires a demonstration of
3 “net benefits.” In this case, there are substantial benefits that will accrue to
4 customers through the Eversource acquisition of the Bay State Gas assets,
5 particularly given the fact that—on a standalone basis—Bay State Gas has
6 historically filed for base-rate relief every two to three years. Many of the
7 corporate, engineering, management and operating functions necessary to serve
8 customers on the Bay State Gas system are provided by NiSource Corporate
9 Services Company (“NCSC”) and the base rates set by the Department for the Bay
10 State Gas system account for these costs. Conversely, NSTAR Gas and Bay State
11 Gas are similar, comparably sized systems, creating the long-term potential for
12 operating cost synergies where the two companies can be integrated over time and
13 operated under one management structure, rather than two.

14 With the opportunity to rationalize operations on a common platform, Eversource
15 will be able to work to avoid the types of operating cost increases that drove the
16 need for base-rate cases in the past on the Bay State Gas system, while managing
17 capital investment that will be required to assure the safety and reliability of the
18 system. As a result, Eversource’s acquisition of the Bay State Gas assets creates
19 the opportunity to provide customers with improved public safety, greater rate
20 stability, and reduced operating cost levels over the longer term than would

1 otherwise occur. A long-term rate stabilization plan will assure that customers
2 receive a tangible benefit as a result of the transaction and that customers are
3 shielded from the rate impacts of a “business as usual” approach that would
4 necessarily have to apply in the absence of the transaction. As discussed in greater
5 detail below, Eversource estimates that customer benefits arising from the
6 transaction will be both quantitative and qualitative, with the quantitative benefits
7 projected to be approximately \$281 million over the next 10 years.

8 **Q. Would you please describe the overall components of Eversource’s proposed**
9 **10-year rate stabilization plan?**

10 A. Yes. There are three primary components to Eversource’s proposed 10-year rate
11 stabilization plan.

12 First, Eversource will need to submit a base-rate petition under G.L. c. 164, § 94 in
13 the first quarter 2021, requesting a change in base rates by year-end, 2021. This
14 base-rate proceeding is a necessary first step that will serve as the “cast-off” for a
15 10-year rate plan. Currently, the base rates in place on the Bay State Gas system
16 were established by rate settlement in Bay State Gas Company d/b/a Columbia Gas
17 of Massachusetts, D.P.U. 15-50 (2015), using a 2014 test year. Therefore, the cost
18 of service reflected in current base rates has not been updated for a relatively long
19 time period and is clearly causing an under-recovery situation. This under-recovery
20 is demonstrated by the fact that Bay State Gas had filed in April 2018 for a

1 modification of base rates in D.P.U. 18-45, and had reached settlement in
2 September 2018, with the Office of the Attorney General (“AGO”), Department of
3 Energy Resources (“DOER”) and the Low-Income Weatherization and Fuel
4 Assistance Program Network (“LEAN”).³ The D.P.U. 18-45 Rate Settlement
5 provided for an increase in base revenues of approximately \$25.9 million, net of
6 the transfer of Gas System Enhancement Program (“GSEP”) recoveries from the
7 GSEP factors to base rates. As a result, it will be necessary for Eversource to
8 request that the Department reset base rates to update the cost of service as a “cast-
9 off” cost of service for the 10-year rate stabilization plan. Below, my testimony
10 provides additional detail on Eversource’s planned base-rate proceeding for 2021.

11 Second, Eversource is requesting that the Department authorize Eversource to
12 implement an annual capital cost recovery mechanism for implementation on the
13 Bay State Gas system, as part of its approval of the Section 96 petition in this case.
14 The capital cost recovery mechanism would provide annual recovery of non-GSEP
15 capital projects completed and placed in service through December 31, 2028 (i.e.,
16 for the years 2021 through 2028), and would be implemented one year following

³ On April 13, 2018, Bay State Gas filed a base distribution rate proceeding, consistent with G.L. c. 164, § 94, with the Department. On September 15, 2018, Bay State Gas, along with the AGO, DOER and LEAN submitted an executed Settlement Agreement for the Department’s review and approval in D.P.U. 18-45. On September 19, 2018, Bay State Gas filed a Motion to Withdraw its rate proceeding in order to focus exclusively on service restoration and customer assistance following the Greater Lawrence Incident. The Department granted the Motion to Withdraw on September 19, 2018.

1 the setting of new base rates in 2021. To stabilize rates for customers over that time
2 period, Eversource would agree that it would be barred from filing for new base
3 rates to take effect prior to November 1, 2030, so that customers would experience
4 distribution rate changes only in association with the capital cost recovery
5 necessary to reinforce the system for safety and reliability purposes, after the “cast-
6 off” cost of service is set. At the next base-rate proceeding to take effect on
7 November 1, 2030, customers would become the automatic beneficiaries of any
8 and all operating cost savings achieved over the 10-year term in the form of a lower
9 cost of service at that time than would have occurred in the absence of the
10 Transaction. Below, my testimony provides additional detail on Eversource’s
11 requested capital cost recovery mechanism.

12 Third, Eversource is requesting that the Department authorize Eversource to
13 transfer the Bay State Gas peaking assets into HOPCO to facilitate the unified
14 management of the gas resource portfolio of NSTAR Gas and Bay State Gas. Based
15 on Eversource’s preliminary assessment of the Bay State Gas resource portfolio,
16 there is the opportunity to improve the efficiency of the gas resource portfolio if
17 managed on a combined basis with the NSTAR Gas resource portfolio. Integrated
18 utilization of the Bay State Gas peaking assets within HOPCO is highly likely to
19 produce reliability and cost benefits for customers of both NSTAR Gas and Bay
20 State Gas. As the Department is aware, all gas cost savings pass directly to

1 customers through the Cost of Gas Adjustment factors, enabled by the Gas Service
2 Agreement that would be in place between Bay State Gas and HOPCO. Below, my
3 testimony provides additional detail on Eversource's request to transfer the Bay
4 State Gas peaking assets into HOPCO.

5 **Q. With respect to the base-rate proceeding planned as Step 1 of the Rate**
6 **Stabilization Plan in 2021, what is the revenue deficiency that Eversource**
7 **estimates will be the basis for the filing?**

8 A. Based on Eversource's review of the rate filing and associated rate settlement
9 reached in D.P.U. 18-45, Eversource projects that the revenue deficiency in the
10 2021 base-rate filing will be approximately \$56 million. Eversource expects to use
11 a split test year ending June 30, 2020. To project the anticipated revenue
12 deficiency, Eversource started with the D.P.U. 18-45 Settlement, which was based
13 on a 2017 test year period, as updated for incremental capital additions through a
14 split test year ending June 30, 2020.⁴ Eversource assumed that the increase in
15 operating and maintenance costs through the end of the test year would have
16 followed past experience, increasing over time at a rate of 4.63 percent, which is
17 the rate of change that actually occurred for Bay State Gas between D.P.U. 15-50
18 and D.P.U. 18-45. Eversource did not attempt to incorporate post-test year
19 adjustments to O&M expenses that would be routine under Department ratemaking
20 practice, nor did Eversource discount the projection to represent what the actual

⁴ As noted above, the settled base revenue increase in D.P.U. 18-45 was \$25.9 million.

1 outcome will be. Eversource also excluded GSEP investments from this analysis,
2 as those investments are recovered through a separate factor. For capital investment
3 in years 2018-2020, Eversource used the capital forecast submitted in response to
4 Information Request AG-1-18, in D.P.U. 18-45.

5 **Q. Will the 2021 base-rate proceeding enable NiSource to recover the capital**
6 **investment made in response to the Greater Lawrence Incident as a result of**
7 **that proceeding?**

8 A. No. Upon the Department's approval of the transaction, and subsequent closing
9 between Eversource and NiSource in third quarter 2020, NiSource will exit the
10 Commonwealth of Massachusetts as a natural gas operation. Therefore, no
11 outcome of the base-rate proceeding in 2021 will benefit NiSource. Similarly, in
12 this case, NiSource is not requesting recovery of its capital investment made in
13 response to the Greater Lawrence Incident, nor is NiSource receiving any direct
14 value associated with that investment as a result of its conveyance of the Bay State
15 Gas assets to Eversource. NiSource is selling the Bay State Gas assets to
16 Eversource at a substantial loss and, with the Department's approval of this
17 transaction, NiSource will be precluded from ever requesting recovery of these
18 costs from Bay State Gas customers.

1 **Q. Will the 2021 base-rate proceeding enable Eversource to recover the capital**
2 **investment made in response to the Greater Lawrence Incident as a result of**
3 **that proceeding?**

4 A. Eversource has not made any investment in response to the Greater Lawrence
5 Incident. Instead, Eversource is assuming ownership of the total rate base amount
6 as of closing. As of December 31, 2019, the Bay State Gas rate base was valued at
7 approximately \$1.132 billion (Exhibit JP-DPH-2).⁵ Therefore, Eversource expects
8 that, at closing, the Bay State Gas rate base will be valued at a different amount
9 within the range of \$1.132 billion, reflecting normal additions and subtractions
10 occurring in 2020, prior to the closing of the transaction.

11 Within the group of assets that Eversource is purchasing, “rate base” comprises the
12 largest component; however, Eversource has not performed any analysis to
13 breakdown rate base among specific projects historically undertaken by NiSource.
14 In terms of the composition of rate base as of the date of closing, there will be no
15 specification as to the genesis of the project costs comprising rate base that would
16 be specifically attributable to the Greater Lawrence Incident, from the perspective
17 of Eversource. Eversource is purchasing distribution assets that are “used and
18 useful” in the service of customers regardless of the timing of, or driver for, prior

⁵ For purposes of this transaction, Eversource is purchasing the assets of Bay State Gas for the price of \$1.1 billion subject to certain closing adjustments described in the APA. The purchase price of \$1.1 billion and the computed rate base of approximately \$1.132 billion (as of December 31, 2019) do not directly correlate. These are only coincidentally the same number.

1 capital additions completed on the Bay State Gas system in the past. In addition,
2 because NiSource will be exiting Massachusetts upon closing, the transaction is
3 structured so that Eversource commences operations with an established rate base
4 that will be used for future ratemaking purposes and that will be accepted by the
5 Department as of the date of closing for that purpose. Therefore, for the transaction
6 to move forward, the Department must make a finding in its final decision in this
7 proceeding, accepting the rate base computed at closing for purposes of future
8 ratemaking, with any future prudence reviews applying to Eversource only after the
9 closing date.

10 **Q. How is this treatment of rate base reflected in the APA?**

11 A. Under the terms of the APA, the "MDPU Required Regulatory Approval" is a
12 condition precedent to closing. This condition precedent requires that the rate base
13 acquired by Eversource *as of the date of closing* of the acquisition be accepted for
14 ratemaking purposes going forward. "MDPU Required Regulatory Approval" has
15 the meaning specified in Section 7.3(a) of the APA. Section 7.3(a) states:

16 **"MDPU Required Regulatory Approval."** Recognition that the
17 applicable rate base for Bay State Gas Company's business of
18 storing, distributing or transporting natural gas to residential,
19 commercial and industrial customers in Massachusetts for
20 ratemaking purposes following the closing **is the rate base as of the**
21 **Closing**, and that Eversource shall have the burden of showing
22 prudence for any adjustments made to rate base after the Closing but
23 not before the Closing.
24

1 This provision of the APA establishes that Eversource is not required to move
2 forward with consummation of the transaction, if Eversource does not receive
3 recognition by the Department that it will be eligible to incorporate the rate base
4 existing as of the Closing date into distribution rates for Bay State Gas customers.
5 The provision also establishes that Eversource is responsible for demonstrating the
6 prudence of capital additions completed after the date of closing.

7 **Q. Would you please review the computation of rate base as of December 31, 2019**
8 **of \$1.132 billion?**

9 A. Yes. Exhibit JP-DPH-2 provides the computation based on information available
10 as of December 31, 2019. For purposes of this demonstration, Eversource has used
11 actual book data through December 31, 2019, except for deferred income taxes.
12 For this amount, Eversource has used the "normalized" accumulated deferred
13 income taxes ("ADIT") using information from D.P.U. 18-45. The estimated rate
14 base computed in Exhibit JP-DPH-2 is \$1.132 billion; however, this figure is not
15 final. This figure is subject to normal additions and subtractions during 2020 and
16 to the computation of ADIT, as of closing.

17 **Q. Why is the computation of ADIT of particular interest in relation to**
18 **Eversource's acquisition of the Bay State Gas assets?**

19 A. Eversource's acquisition of the Bay State Gas assets is structured as an asset sale
20 rather than a stock sale. The sale of an asset with an ADIT balance is deemed a
21 taxable event under Internal Revenue Service rules, and, as such, the ADIT balance

1 is extinguished as the deferred taxes then become payable by NiSource to the
2 appropriate government authorities. The ADIT balance does not include Excess
3 ADIT (in connection with the Tax Cuts and Jobs Act of 2017) as these amounts
4 have been recorded to a Regulatory Liability that will transfer to Eversource.

5 As a result, Eversource recognizes a rate-base offset (“RBO”) similar to that
6 approved by the Department in Liberty Utilities-New England Gas Company,
7 D.P.U. 13-07-A (2013) is necessary for the Department's approval of the
8 transaction in this proceeding. Prior to closing, the value of the acquired rate base
9 figures will be thoroughly reviewed and validated. Eversource expects that the
10 Department will require a compliance filing to assure that appropriate, final,
11 validated figures would be relied on for ratemaking purposes going forward.

12 **Q. How would the RBO apply in future ratemaking proceedings?**

13 A. In terms of structure, the RBO would function as follows:

- 14 1. The RBO would take the form of a regulatory liability.
- 15 2. The regulatory liability would be amortized beginning from the date of
16 closing on a straight line basis over 20 years. Once the proper RBO amount
17 is finalized, the amortization schedule, and associated remaining balance of
18 the regulatory liability for each year of the 20-year period would be
19 memorialized in a written schedule. In rate-setting processes taking place
20 under the 10-year rate plan (and beyond), the EGMA revenue requirement
21 would be calculated by incorporating the appropriate remaining balance of

1 the regulatory liability from the amortization schedule as a credit to rate
2 base in computing the rate base for setting rates.

3 4. To the extent that EGMA accumulates ADIT associated with the stepped-
4 up basis arising from the Transaction, the ADIT amount associated with the
5 stepped-up increment would be deducted from the RBO during the rate-
6 setting process occurring in any year of the 20-year amortization period.

7 Following this sequence, the rate-base offset used for setting new distribution rates
8 in any particular year would be similar to the model imposed by the Department in
9 Liberty Utilities-New England Gas Company, D.P.U. 13-07-A (2013).

10 **Q. What is Eversource’s initial quantification of the RBO that would apply in the**
11 **2021 rate case and on a going forward basis?**

12 A. As outlined in the APA, Eversource is acquiring certain assets and liabilities that
13 will exist on the Bay State Gas books of record as of the monthly closing
14 immediately preceding the acquisition. At the date of closing, Eversource will
15 record journal entries for the assets and liabilities being acquired, so that the newly
16 formed “Eversource Gas” entity (EGMA) will reflect month-end balances existing
17 on the Bay State Gas books just prior to the date of closing for those assets and
18 liabilities being acquired. The ADIT balances that exist on the Bay State Gas books
19 will not transfer to Eversource along with the assets and liabilities purchased.
20 Therefore, Eversource intends to calculate and record a regulatory liability

1 associated with the acquired assets and liabilities that would serve as the RBO in
2 applicable ratemaking proceedings for a period of 20 years following closing.

3 **Q. How would Eversource quantify the RBO, upon closing?**

4 A. In this Transaction, the balance of ADIT at Closing will not transfer with the sale
5 of the Bay State Gas business to Eversource and EGMA. To assure that EGMA
6 customers are not harmed by the resulting increase in base rates that would
7 otherwise occur, Eversource will calculate and record a liability associated with the
8 acquired assets and liabilities that will serve as the RBO in applicable ratemaking
9 proceedings for a period of 20 years following Closing. The RBO, will be
10 determined as follows: NiSource will determine the portion of actual, year-end
11 2019 per book ADIT that is rate-base related. Prior to Closing, NiSource will
12 determine the portion of actual, year-end 2019 per book ADIT that is rate base
13 related, relying on the pro forma or as-filed Bay State Gas Federal income tax return
14 for calendar year 2019, as available.

15 For calendar 2020 activity, NiSource shall provide Eversource with the incremental
16 rate base related ADIT activity to be added to (or subtracted from) the 2019 rate
17 base related ADIT based on the income-tax provision that supports NiSource's
18 books, consistent with generally accepted accounting principles. Activity for 2020
19 will be calculated based on actual plant investment in 2020, consistent with typical

1 ratemaking practices (i.e., by calculating the ADIT on the book-tax timing
2 differences).

3 As noted above, the RBO will then be amortized on a straight-line basis over 20
4 years from the date of closing. The amortization schedule and associated remaining
5 balance of the RBO regulatory liability for each year of the 20-year period will be
6 memorialized in a written schedule so that, in rate-setting processes taking place
7 during the 10-year rate plan and beyond, the EGMA revenue requirement will be
8 calculated by incorporating the appropriate remaining balance of the RBO
9 regulatory liability from the amortization schedule as a credit to rate base in
10 computing the rate base for setting rates. The RBO Amortization Schedule shall
11 follow the form shown in Exhibit JP-DPH-3 and shall reflect only the balance of
12 the RBO to be used as a deduction to rate base. The amortization of the RBO shall
13 be recorded to Account 425 and will not be reflected in the calculation of utility
14 operating income in any future rate proceeding, consistent with Liberty Utilities,
15 D.P.U. 13-07 (2013) and Liberty Utilities, D.P.U. 15-75 (2015).

16 Lastly – the above discussion does not apply to the EDIT balance approved by the
17 Department in D.P.U. 18-15, as that balance will transfer as a regulatory liability
18 upon the sale.

1 **Q. Are there any other aspects of the Step 1 establishment of cast-off rates for the**
2 **Rate Stabilization Plan that should be discussed?**

3 A. Yes. As I stated above, if the Department accepts the Eversource Rate Stabilization
4 Plan and allows for annual capital cost recovery associated with conducting the
5 work schedule arising from the Safety Assessment Plan (described below),
6 Eversource will commit to refrain from submitting a general distribution rate
7 proceeding for a period of 10 years, or no sooner than rates effective November 1,
8 2030. During the period through November 1, 2030, distribution rates would be
9 subject to adjustment up or down for exogenous factors and to implement rate
10 factors that are imposed by Massachusetts statutory law, or are adopted by all other
11 gas distribution companies in Massachusetts (such as provisions for COVID-
12 related cost recovery). Eversource proposes that eligibility for exogenous cost
13 recovery or rate credit to customers shall be established in accordance with the
14 exogenous factors authorized by the Department in the NSTAR Gas base-rate
15 proceeding currently pending before the Department in D.P.U. 19-120. The dollar
16 threshold for qualification as an exogenous factor in any calendar year will be
17 determined by multiplying the total operating revenues of that year by a factor of
18 0.001253, consistent with Department precedent.

1 **Q. What is Eversource’s proposal for Step 2 of the Rate Stabilization Plan, which**
2 **is the establishment of a capital cost recovery mechanism?**

3 A. There are two elements of Eversource’s proposal to establish a capital cost recovery
4 mechanism (“CCRM”) for non-GSEP capital investment completed in the years
5 2021-2028. First, Eversource plans to conduct a system-wide safety assessment
6 and to prepare a long-term capital investment plan (“Safety Assessment Plan” or
7 “Safety Assessment”). The Safety Assessment and refurbishment plan and
8 associated capital investment forecast would be submitted to the Department as part
9 of the 2021 rate filing and would cover the years 2021 through 2028. The Safety
10 Assessment would identify the long-term work plan to rehabilitate Bay State Gas
11 system, and with that work plan, Eversource will put forth an annual capital forecast
12 for the non-GSEP and LNG capital investment needed to maintain safety and
13 reliability of the Eversource Gas system. The Department would review and
14 approve this plan during the 2021 rate case.

15 Second, following the rate case, the capital cost recovery mechanism would be
16 implemented as of November 1, 2022, operating on a lagged basis such that the
17 cost of investments made in one year would be recovered starting on November 1
18 of each subsequent year. i.e., recovery under the capital cost recovery mechanism
19 would commence November 1, 2022 for non-GSEP capital additions placed into
20 service in 2021. Eversource estimates that recovery under the capital cost recovery
21 mechanism for capital additions placed into service between 2021 and 2028 would

1 be in the range \$234 million, based on preliminary estimates that would be subject
2 to refinement and adjustment following the completion of the Safety Assessment.

3 In almost all respects, Eversource views that the operation of the capital cost
4 recovery mechanism would be identical to the Targeted Infrastructure
5 Reinvestment Factor (“TIRF”) mechanism that was previously authorized by the
6 Department for Bay State Gas. Specifically, Eversource Gas would submit a filing
7 to the Department on May 1 of each year, for a reconciling rate to commence on
8 November 1 of that year for the prior construction year and each year thereafter to
9 November 1, 2029. The first CCRM filing would be made on May 1, 2022 for
10 capital additions placed in service in 2021. Under the capital cost recovery
11 mechanism, the Department would conduct its customary prudence review of the
12 capital additions presented in the annual filing for recovery.

13 **Q. Would you please discuss the details of Step 3 of the Rate Stabilization Plan,**
14 **involving the transfer of Bay State Gas LNG and propane peaking facilities to**
15 **HOPCO?**

16 A. HOPCO currently owns and operates the LNG facilities in Hopkinton and
17 Acushnet, Massachusetts and provides service to NSTAR Gas pursuant to a long-
18 term Gas Service Agreement (“GSA”). NSTAR Gas relies on the HOPCO facilities
19 for its winter season on-system storage and LNG supply requirements. However,
20 there are optimization opportunities that could be achieved in relation to on-system
21 peaking facilities with the incorporation of the Bay State Gas peaking assets into

1 the HOPCO portfolio. Therefore, Eversource is requesting that the Department
2 allow Eversource to transfer the Bay State Gas peaking assets from EGMA to
3 HOPCO, immediately following sale.

4 The APA does not provide for this transfer. Therefore, to avoid the unnecessary
5 step of renegotiating the APA, Eversource would transfer the assets to HOPCO
6 immediately after the Closing, rather than at Closing. All 8 facilities would be
7 transferred at the book value. Following closing, and after a period of study and
8 observation, management of the peaking resources will be fully integrated.
9 Eversource expects that, at a future date, once management of the gas supply
10 portfolio was fully integrated it would propose consolidation of the Cost of Gas
11 Adjustment Factors, subject to review and approval by Department.

12 Moving the Bay State Gas peaking facilities into HOPCO will enable Eversource
13 to operate the facilities on a consolidated basis, driving operating and cost
14 efficiencies. Additionally, this transfer will enable HOPCO to undertake needed
15 capital additions and improvements at the Bay State Gas LNG and propane
16 facilities to ensure that these facilities are continuing to provide critical services to
17 customers. Following the Transaction close, Eversource will submit a long-term
18 GSA to the Department for approval to establish service and cost recovery
19 requirements between HOPCO and Eversource Gas. This GSA will be identical to
20 the NSTAR Gas GSA with HOPCO, except that in the NSTAR Gas GSA with

1 HOPCO there is distinction between a “Refurbishment Period” and a “Post
2 Refurbishment Period.” This distinction will not be incorporated into the EGMA
3 GSA with HOPCO; there will not be a “Refurbishment Period.”

4 **Q. How do potential gas cost savings factor into the Rate Stabilization plan?**

5 A. Eversource has not yet had sufficient time or opportunity to conduct a thorough
6 examination of the potential savings that may be achievable over time through
7 optimization of the consolidated gas-resource portfolio of NSTAR Gas and Bay
8 State Gas. In addition, Eversource is planning to operate the Bay State Gas assets
9 for a period of time before it makes changes to the resource portfolio. However,
10 Eversource is confident that gas cost savings will be achieved, which will pass
11 directly through to customers through the Cost of Gas Adjustment (“CGA”) factors.
12 Therefore, Eversource is planning to conduct a comprehensive study of overall,
13 consolidated gas supply resource portfolio to identify, evaluate and quantify
14 optimization opportunities to reduce costs for customers. The portfolio evaluation
15 study will look at capacity, supply, and use of peaking facilities, among other items.
16 Eversource would report the results of this study to the Department and the AGO
17 for informational purposes to demonstrate results of the integration. The study will
18 provide a description of the review undertaken and conclusions drawn on each

1 peaking facility and plans for disposition before steps are taken, i.e., retirement,
2 refurbishment or status quo.

3 Based on the outcome of that assessment, Eversource and EGMA will take all
4 reasonable steps to achieve gas cost savings for the benefit of customers. Any gas
5 cost savings would be passed to customers directly through the CGAC as reduced
6 costs.

7 **Q. Is the Rate Stabilization Plan a necessary component of the Transaction?**

8 A. Yes. As described in my testimony and the testimony of Eversource Witnesses Mr.
9 Akley and Ms. Conner, Eversource is a natural fit to acquire the Bay State Gas
10 assets, with an existing presence in Massachusetts, locally based gas dispatch and
11 emergency response, and a strong operational track record in New England.
12 Moreover, Eversource has a proven record of investing in infrastructure,
13 employees, and the communities it serves. To bring that same level of safe, reliable,
14 high-quality service to EGMA customers (formerly Bay State Gas customers), a
15 predictable and reliable regulatory framework is critical. The rate stabilization plan
16 described above will enable Eversource to take the steps needed to safely and
17 reliably serve Eversource Gas customers, while eliminating the rate-case cycle
18 historically followed by NiSource on the Bay State Gas system.

1 **IV. NET BENEFITS ANALYSIS**

2 **Q. Does Eversource have the operational and financial capabilities needed to**
3 **provide safe and reliable gas distribution services to Bay State Gas customers?**

4 A. Absolutely. Eversource has a proven track record of providing safe, reliable and
5 cost-efficient service to approximately four million gas, electric and water
6 customers across three states. Eversource tirelessly promotes a robust safety
7 culture at all levels of the organization, but particularly in its field operations.
8 Eversource focuses on rigorous training and safety processes to ensure that it has
9 an experienced, well trained workforce available to provide high-quality, safe
10 service to customers.

11 In addition, Eversource is committed to continuously enhancing the customer
12 experience consistent with the high level of service customers have come to expect
13 from service providers. Eversource has focused on new mobile applications and
14 further increases in customer digital engagement to further boost positive customer
15 interactions. Eversource also offers award winning energy efficiency programs to
16 its customers that are tailored to enable customers to reduce their usage, save on
17 their bills and contribute to achieving the Commonwealth's important energy and
18 environmental goals. Eversource continues to increase its support of the
19 communities it serves through corporate philanthropy and employee volunteer
20 programs.

1 **Q. From an overall perspective, does the transaction meet the public interest**
2 **standard under Section 96?**

3 A. Yes. The transaction is consistent with the public interest and will produce net
4 benefits for Bay State Gas customers. Eversource's acquisition of the Bay State
5 Gas assets provides a unique opportunity to improve the service provided to Bay
6 State Gas customers, increase the safety and reliability of the Bay State Gas
7 distribution system and assure that Bay State Gas customers reap the full range of
8 benefits that have the potential to arise from this transaction.

9 In addition to the quantitative benefits that Eversource has estimated to arise from
10 the transaction, Bay State Gas customers will experience a range of non-economic
11 benefits associated with the transaction. Customers will be served by a sizeable
12 utility organization with local presence and experience, financial strength, broad
13 operating experience, and substantial technical resources. Bay State Gas customers
14 will transition into the Eversource organization, facilitated in part by former Bay
15 State Gas employees joining Eversource as part of the transaction. In this way,
16 customers benefit by the retention of critical institutional knowledge and
17 experience associated with the distribution system. The transaction will provide
18 these former Bay State Gas employees advantages in joining a larger, diverse utility
19 organization that includes natural gas, electricity and water operations. As
20 Eversource employees, these individuals will enjoy greater opportunities for

1 training, career development, and professional advancement as compared to the
2 status quo, both within and outside of the natural gas distribution business.

3 These and other benefits are further discussed below in the context of the various
4 factors the Department considers in a Section 96 transaction.

5 **Q. Would you please explain your understanding of the specific factors that must**
6 **be addressed to demonstrate that the Transaction meets the Department's**
7 **standard for approval under Section 96?**

8 A. My understanding is that the Department applies a “net benefits” test for
9 determining whether a transaction proposed for approval under Section 96 will be
10 “consistent with the public interest,” meaning that the petitioner must demonstrate
11 that the benefits outweigh the costs of the proposed transaction. In making this
12 determination, the Department may review a number of factors, including:

- 13 1. Effect on rates.
- 14 2. Effect on the quality of service.
- 15 3. Resulting net savings.
- 16 4. Effect on competition.
- 17 5. Financial integrity of the post-merger entity.
- 18 6. Fairness of the distribution of resulting benefits between shareholders
19 and ratepayers.
- 20 7. Societal costs.
- 21 8. Effect on economic development.
- 22 9. Alternatives to the merger or acquisition.

1 10. Long-term strategies that will assure a reliable, cost-effective energy
2 delivery system.

3 11. Any anticipated interruptions in service.

4 12. Other factors that may negatively impact customer service.

5 **Q. Have you assessed the impacts of the transaction under each of these factors?**

6 A. Yes. The balance of this section of my testimony addresses each of these factors
7 and demonstrates that the transaction meets the Department's net benefits standard
8 for approval. Exhibit JP-DPH-4 provides Eversource's computation of the net
9 benefits analysis associated with the 10-year rate stabilization plan. Below, my
10 testimony discusses certain qualitative benefits that will also arise, but that are not
11 discussed in Exhibit JP-DPH-4.

12 **Q. As to the Department's first factor of the net benefits test, will the transaction**
13 **have an adverse impact on the rates of customers?**

14 A. No, to the contrary. As detailed above, Eversource has carefully tailored the 10-
15 year Rate Stabilization Plan to achieve two critical, overarching objectives: (1) to
16 stabilize rates for customers; and (2) provide Eversource with the capital resources
17 necessary to improve the safety, reliability and environmental impact of the Bay
18 State Gas distribution system. Since 2009, Bay State Gas has petitioned the
19 Department for an increase in base rates five times (D.P.U. 09-30, D.P.U. 12-25,
20 D.P.U. 13-75, D.P.U. 15-50 and D.P.U. 18-45). If the Greater Lawrence Incident
21 had not occurred, Bay State Gas would likely have filed a sixth base-rate case for

1 rates effective March 31, 2021, as allowed by the D.P.U. 18-45 Rate Settlement.
2 This is a rate-case cycle averaging on two to two-and-half years between rate cases.
3 Under Eversource's Rate Stabilization Plan, there is one base rate case and a series
4 of smaller annual adjustments over a 10-year time frame, avoiding two full base-
5 rate petitions, if the historical cycle were maintained. Exhibit JP-DPH-4, page 3,
6 provides the calculation of the Avoided Rate Case Savings. As shown on page 3,
7 Eversource's estimate of savings associated with the Avoided Rate Cases is **\$876**
8 **million** over the 10-year term of the rate plan. This figure represents the most
9 current information and analysis developed by Eversource.

10 **Q. Has Eversource calculated the impact of the rate changes that Eversource is**
11 **anticipating under the Rate Stabilization Plan, as a deduction to the Avoided**
12 **Rate Case Savings.**

13 A. Yes. Eversource has computed the offsetting impact of the 2021 base-rate increase
14 of \$56 million, as **\$444 million** over 10 years. Specifically, to compute the
15 offsetting impact of the rate changes that would occur under the Eversource Rate
16 Stabilization Plan, Eversource estimated the revenue deficiency associated with the
17 planned 2021 base-rate filing and assumed, for the sake of simplicity, that the rate
18 increase would take effect on January 1, 2022. Eversource calculated the rate
19 increase consistent with the D.P.U. 18-45 Settlement, which was based on a 2017
20 test year period, as updated for incremental capital additions through an assumed
21 test year ending June 30, 2020. In determining the revenue deficiency of \$56

1 million Eversource also assumed an increase in O&M versus historical levels. For
2 purposes of calculating O&M, Eversource assumed increases over 2017 levels at
3 2.32 percent, which is one half of 4.63 percent; the rate of change that actually
4 occurred for Bay State Gas between D.P.U. 15-50 and D.P.U. 18-45. Eversource
5 excluded GSEP investments from this analysis, as those investments are recovered
6 through the separate factor and would be undertaken with or without the sale. For
7 capital costs, Eversource assumed the capital forecast submitted by Bay State Gas
8 in D.P.U. 18-45, adjusted to include an additional \$100 million of investment in
9 2018 to incorporate additional spending above and beyond that which was
10 forecasted in 2018 at the time of D.P.U. 18-45.

11 **Q. Did Eversource also compute the offsetting impact of the annual capital cost**
12 **recovery starting November 1, 2022, for capital investments made in 2021?**

13 A. Yes. Eversource has computed the offsetting impact of the annual capital cost
14 recovery, as **\$234 million** over 10 years. The amount of \$234 million for capital
15 cost recovery through 2030 (beginning in 2022) assumes the recovery of non-GSEP
16 capital investments made beginning January 1, 2021. This figure represents the
17 most current information and analysis developed by Eversource. To forecast this
18 amount, Eversource used the capital forecast submitted by NSTAR Gas in D.P.U.
19 19-120, escalated at the same rate encompassed in the NSTAR Gas projections. In
20 combination with the revenue impact of the 2021 base-rate increase, the offsetting
21 impact of the expected rate changes is \$876 million, representing a net benefit to

1 customers of approximately \$198 million in avoided rate increases that are reflected
2 in rates in the Avoided Rate Case Scenario. In addition, rather than experiencing
3 larger, periodic increases that are more difficult for both residential and commercial
4 customers to adjust to, the Rate Stabilization Plan smooths out the rate adjustment
5 on an annual basis.

6 **Q. Are there other rate savings that Eversource has calculated as benefits to**
7 **customers?**

8 A. Yes. As shown in the Net Benefits Analysis, Exhibit JP-DPH-4, at page 3,
9 Eversource is projecting annual O&M cost savings in the range of \$40 million by
10 Year 10, which would be a benefit to customers in the base-rate proceeding
11 anticipated for rates effective November 1, 2030. Also, Eversource is
12 conservatively estimating savings of \$2 million annually for gas cost reductions, or
13 \$20 million over 10 years. Eversource anticipates that actual gas cost savings will
14 exceed this amount, perhaps substantially. However, additional work will be
15 needed to more precisely estimate the actual gas cost savings that could be
16 achieved.

17 **Q. What are the total net benefits that Eversource has calculated as arising as a**
18 **result of Eversource's acquisition of the Bay State Gas assets?**

19 A. The total, rate-related cost savings that Eversource has calculated is \$281 million
20 over the 10 years following the closing of the Transaction. This amount includes

1 the \$22 million payment in lieu of penalties discussed in the testimony of Joint
2 Petitioner Witness Shawn Anderson, of NiSource.

3 **Q. As to the second factor, please describe how the transaction will affect service**
4 **quality.**

5 A. Bay State Gas customers will experience, in the years following the close of the
6 transaction, an improvement in their service quality. More specifically, there will
7 be no changes to operations upon closing that would have an adverse impact on
8 service quality, nor does the transaction closing represent a greater potential of
9 service interruptions. A detailed discussion of the service-quality improvements
10 currently anticipated by Eversource is put forth in the testimony of Joint Petitioner
11 Witnesses, Mr. Akley and Ms. Conner.

12 As they discuss, the transaction will promote public safety. Under the Eversource
13 organization, Bay State Gas customers and employees will benefit from
14 technology-based safety enhancements and a robust and regimented safety culture.
15 Employees will benefit from online and classroom behavior-based training
16 coursework, rigorous safety processes, and will have the opportunity to share
17 experiences with their new co-workers within the larger organization. Employees
18 will have opportunities to interconnect with peers across all business units to
19 expand their knowledge of the industry and become immersed in Eversource's
20 culture of Safety First, Safety Always. In addition, employees will have access to

1 a network of safety professionals and will participate in safety-focused events, such
2 as safety symposiums. Post-closing, Eversource and EGMA will continue the long
3 tradition of promoting safety within the communities it serves through the
4 development and maintenance of strong working relationships with local
5 emergency response personnel.

6 Following the transaction close and as Bay State Gas operations are gradually and
7 effectively incorporated into the Eversource organization, Bay State Gas customers
8 will benefit from the use of a local gas control system and qualified operators that
9 enable the quick diagnosis of and response to any potential distribution system
10 concerns. This focus on localized operations will provide an added means to
11 improve reliability on the Bay State Gas distribution system that is not present pre-
12 transaction.

13 Furthermore, Eversource proposes to institute a series of new performance
14 measurement metrics for Bay State Gas to identify and gauge improvements in the
15 level of service quality received by Bay State Gas customers. The performance
16 metrics are based on the metrics proposed by NSTAR Gas in D.P.U. 19-120 and
17 are tied to Safety and Reliability; Customer Satisfaction and Engagement; and
18 Emission Reductions.

1 In addition, Bay State Gas customers will benefit from access to Eversource's
2 comprehensive energy efficiency programs administered by a cohesive and robust
3 department staffed by knowledgeable and experienced employees. Following the
4 Transaction closing, Eversource will utilize its energy efficiency team to develop a
5 strategy for achieving the Bay State Gas savings goals set out in the 2019-2021
6 Three-Year Energy Efficiency Plan and associated Term Sheet.

7 **Q. Do you anticipate that net savings will result from the Transaction?**

8 A. Yes. As discussed above, Eversource has computed quantitative net benefits in the
9 range of \$281 million over the 10-year period following the closing of the
10 transaction with implementation of the proposed 10-year rate stabilization plan.
11 Within this estimate, Eversource projects annual O&M savings of \$40 million by
12 Year 10 (presented in Exhibit JP-DPH-4, at page 6). This figure represents the
13 difference between the level of O&M under a status quo scenario as compared to
14 the level of O&M under EGMA ownership and is based on the most current
15 information and analysis developed by Eversource.

16 The important factor to consider in this transaction is that, unlike traditional
17 acquisitions with potential for integration and associated synergy savings,
18 Eversource does not expect that O&M savings will be achievable until the latter
19 years of the 10-year rate stabilization plan. Eversource's pre-acquisition
20 assessment of the Bay State Gas operations indicates that there is a substantial

1 amount of work that needs to be completed over the next several years to evaluate,
2 design, plan and reorganize the Bay State Gas operations and to raise the overall
3 safety and reliability of the system to co-exist with the Eversource operating
4 platform. This effort is critical to the public safety but will require management
5 commitment and significant financial resources. More importantly, many of the
6 corporate, engineering, management and operating functions necessary to serve
7 customers on the Bay State Gas system are provided by NCSC. Therefore, savings
8 cannot be achieved for customers unless and until the functions formerly provided
9 by NCSC are successfully transitioned to Eversource. This transition will be a
10 multi-year, complex operation that is very unique because Eversource is purchasing
11 a *segment* of an overall utility enterprise rather than entering into a transaction with
12 an overall enterprise, as was the case in the Northeast Utilities and NSTAR merger.
13 When the transaction involves the overall enterprise, it is not necessary to develop
14 transitional arrangements to maintain business continuity and assure a seamless
15 transition for customers. Here, the transition will be a major challenge for
16 Eversource that will take time, resources and extraordinary diligence and patience
17 to work through.

18 As part of the APA, NiSource, Bay State Gas and Eversource agreed to a pricing
19 methodology to be utilized for services provided by NiSource to Eversource post-
20 close through a series of transition service agreements (“TSAs”), taking the form

1 of the Transition Service Agreement set forth in Schedule A of the APA. Schedule
2 A of the APA contains high-level categories of services anticipated to be provided
3 by NiSource to Eversource post-closing. Prior to closing, Eversource and NiSource
4 will mutually agree on a list of detailed services to be provided and prices for each
5 service. Eversource and NiSource have commenced the collaborative work
6 necessary to define detailed services and established the individual TSAs for each
7 service function.

8 **Q. How does Eversource plan to demonstrate the O&M savings achieved as a**
9 **result of the acquisition in later years?**

10 A. Eversource anticipates demonstrating savings consistent with its demonstrations in
11 D.P.U. 14-150 and D.P.U. 17-05 in relation to the Northeast Utilities/NSTAR
12 merger. In those cases, Eversource demonstrated specific cost reductions that could
13 only have been achieved under the circumstances of the merger, where Eversource
14 was able to achieve economies of scale in purchasing (such as for corporate
15 insurance and employee health insurance) and other specific integration savings
16 (elimination of corporate costs). Eversource will track those types of actual merger-
17 related savings annually over the ten-year period and would be willing to provide
18 for annual reporting so there is a line of sight into the achievements. EMGA would
19 also present this information in the rate case to take place at the expiration of the
20 rate stabilization plan.

1 Eversource could also present an analysis of the settlement O&M baseline from
2 D.P.U. 18-45, adjusted for inflation over the 10-year period for reference purposes.
3 However, this type of analysis is not likely to be useful or valid given that
4 Eversource contemplates that additional spending will have to occur to align the
5 Bay State Gas system with the Eversource platform, while addressing increasing
6 safety and environmental requirements over the next several years, i.e., the cost of
7 service in 2030 is not likely to be an "apples-to-apples" comparison with the cost
8 of service in 2017. Therefore, Eversource anticipates that it would need to identify
9 specific cost savings to show how and to what extent customers have benefitted
10 from O&M cost reductions as a result of the transaction, and as compared to what
11 would have occurred otherwise.

12 **Q. Does Eversource plan to seek recovery of any acquisition-related transaction**
13 **or integration costs?**

14 A. Eversource is not requesting that the Department approve the recovery of
15 transaction or integration costs in this docket. Instead, consistent with the
16 Department's longstanding precedent, Eversource is requesting that the
17 Department authorize Eversource to make a demonstration in a future rate
18 proceeding that O&M cost savings have been achieved. If O&M savings are
19 demonstrated to equal or exceed the amortization of transaction and integration
20 costs, then Eversource would be authorized to recover its costs on an amortized

1 basis through rates, where those savings are also locked in through the cost of
2 service.

3 In the interim, no transaction costs incurred to negotiate, draft, or execute the APA,
4 or to obtain the regulatory approvals required to consummate the transaction will
5 be recorded on the books of EGMA. Any transaction costs would be recorded at
6 the parent company level and not allocated or assigned to EGMA. Integration costs,
7 such as costs incurred to transition the former Bay State Gas operations, or to
8 consolidate information systems, or that are otherwise incurred for the purpose of
9 managing the operations of EGMA, may be recorded on the books of the parent
10 company, or EGMA, or charged to EGMA by a service company, in an appropriate
11 proportion.

12 Subject to Department review and approval, transaction and reasonable integration
13 costs from the acquisition would be eligible for recovery in a future distribution
14 rate proceeding to the extent that transaction-related savings are demonstrated to
15 equal or exceed those costs. The compensation for departing employees
16 subsequently rehired or retained as outside consultants will be excluded from the
17 acquisition-related savings calculations. Acquisition-related payments made to
18 officers leaving the employ of Bay State Gas in the category of “change of control”
19 payments, or to executives remaining with the post-acquisition organization in the

1 category of “retention payments,” would be recorded at the parent company level
2 upon closing and will not be eligible for recovery from customers.

3 **Q. Has Eversource quantified the potential transaction and integration costs**
4 **arising from the transaction?**

5 A. With respect to transaction costs, Eversource is estimating costs in the range of \$15-
6 20 million for bankers’ fees, accounting services and legal costs, primarily. These
7 costs are substantially reduced from a normal level due to the collapsed schedule
8 of negotiation and the purchase price negotiated by Eversource.

9 With respect to integration costs, Eversource is unable to estimate such costs at this
10 point. Integration costs will be incurred to consolidate the operations in two
11 perspectives: first, from the perspective of transferring functions currently
12 performed by the NiSource service company to the Eversource Energy Service
13 Company; and second, from the perspective of integrating the Bay State Gas
14 operations into Eversource's gas business. For the service company functions,
15 Eversource expects it will take several years to migrate the Bay State Gas
16 operations to the Eversource Energy Service Company platform, given the level of
17 services provided to Bay State Gas by NCSC.

18 In anticipation of this integration effort, NiSource and Eversource are developing a
19 series of Transition Service Agreements that will be executed upon close. The
20 TSAs will allow Eversource to purchase services from NiSource for up to two

1 years, with maximum extensions of 6 months (two, 3-month extensions). These
2 agreements are necessary to allow time for Eversource to work through all the
3 various processes, without disruption to the services needed to run the business.
4 Eversource anticipates that the bulk of the integration costs will fall into categories
5 such as the costs associated with supporting and migrating the Bay State Gas
6 operations to the Eversource platform and the integration of business processes and
7 information systems to support operations.

8 In terms of the integration of the operations of Bay State Gas and Eversource's gas
9 business, Eversource recognized in taking this transaction on that there would be a
10 need for a longer-term view. Eversource recognizes that there will need to be a
11 considerable amount of work that needs to be performed to gain an understanding
12 of all levels of the Bay State Gas operations in Massachusetts and to re-tool those
13 operations to conform with the Eversource Energy gas platform as part of the
14 integration. This will happen over the longer time frame and will require the
15 incurrence of integration costs; however, there is no way for Eversource to
16 anticipate yet what those costs would be or what the magnitude would be.

17 **Q. Are there costs associated with the TSAs that are necessary to achieve a**
18 **seamless transition of operating functions currently conducted by NCSC to**
19 **Eversource, as part of the overall integration?**

20 A. Yes. As part of the APA Bay State Gas and Eversource agreed to a pricing
21 methodology to be utilized for services provided by NiSource to Eversource post-

1 close through the TSAs. The pricing methodology includes an administrative fee,
2 which was a flat rate negotiated by Eversource and NiSource. The administrative
3 fee is intended to cover costs that NiSource will incur to maintain, provide and
4 administer transition services, which are over and above the actual provision of
5 services.

6 For example, NiSource is currently engaged in an initiative to implement
7 enterprise-wide IT systems. If the transaction is closed with Eversource, NiSource
8 will have to incur costs either to maintain Bay State Gas's existing IT systems
9 separately from the new system or to include Bay State Gas in any new IT systems,
10 but with the ability to separate Bay State Gas at the point that Eversource is ready
11 to assume control of Bay State Gas's IT operations. Either way, even the process
12 to determine which alternative is best will involve cost, although such costs are not
13 estimable at this point.

14 The cost of the services provided by NCSC to the Bay State Gas operations are
15 recovered through customer rates, but the cost that NiSource will incur to provide
16 those services in conjunction with Eversource is not. Both Eversource and
17 NiSource recognized that NiSource would incur a series of incremental costs to
18 provide transition services, which are not susceptible to identification and
19 quantification at this time. Therefore, it was necessary for the parties to negotiate
20 the flat administrative fee to enable the ongoing integration of operations between

1 Bay State Gas and Eversource. The eight percent fee is a negotiated amount based
2 on the experience and judgment of the two companies.

3 **Q. Will the transaction have any negative effect on competition?**

4 A. The transaction will have no negative impact on retail competition in
5 Massachusetts. Bay State Gas currently provides regulated gas distribution service
6 in Massachusetts, including both sales and transportation customers. The
7 transaction does not alter these service provisions. In addition, Eversource is not
8 proposing any changes to the Bay State Gas supplier terms and conditions due to
9 the transaction. Lastly, the transaction will have no negative effect on its business
10 relationships with suppliers or marketers.

11 **Q. How will the transaction affect the financial integrity of the post-merger**
12 **entity?**

13 A. As noted above, under the APA, Eversource and EGMA benefit as these entities
14 are not required to assume any liability associated with the Greater Lawrence
15 Incident, which Bay State Gas currently possesses.

16 In addition, Eversource is a publicly traded, Fortune 500 company. Eversource's
17 Standard & Poor's corporate credit rating is A-. There is no other holding company
18 utility in the Edison Energy Institute Index with a higher credit rating. As a result
19 of its superior credit rating, Eversource has ready access to the financial markets to
20 facilitate capital investments on a cost-efficient basis.

1 Both NiSource Inc. and Bay State Gas have an S&P corporate credit rating of
2 BBB+. The corporate credit rating has not yet been established for the newly
3 formed EGMA, however, Eversource anticipates that the corporate credit rating for
4 EGMA will be A- given that Eversource, NSTAR Gas and Yankee Gas are at that
5 level. Eversource's S&P corporate credit rating of A- allows the Eversource
6 operating companies to borrow at reasonable rates. Thus, the transaction will
7 improve the ability to finance capital investments for Bay State Gas customers,
8 which is important given the significant capital investments anticipated to be
9 undertaken during the 10-year Rate Stabilization Plan.

10 **Q. How will the benefits of the transaction be distributed between shareholders**
11 **and customers?**

12 A. The benefits of the transaction are fairly distributed between customers and
13 shareholders. As an initial matter, NiSource is selling the Bay State Gas assets at a
14 loss, meaning that recovery of goodwill will not be reflected in rates, unlike other
15 transactions that the Department has reviewed in recent years. Customers also
16 benefit under the 10-year Rate Stabilization Plan, which was narrowly crafted to
17 enable Eversource to undertake the needed capital improvements to improve safety
18 and reliability on the Bay State Gas system without unduly burdening customers.
19 Eversource is taking on significant responsibility and risk in terms of these capital
20 upgrades and achieving savings over ten years, during which time it will be unable
21 to file for a full base distribution rate case. Additionally, as discussed above,

1 customers are realizing both quantifiable and non-quantifiable benefits as a result
2 of the transaction. As a result, the distribution of benefits between shareholders
3 and customers that would occur as a result of the Department's approval of the
4 transaction is fair, appropriate and reasonable.

5 **Q. Are there societal or economic impacts that could result from the transaction?**

6 A. Yes, there are positive societal and economic impacts expected to arise from the
7 transaction. For example, customers will benefit in transitioning beyond the
8 Greater Lawrence Incident and its impact on the communities affected by the
9 incident and its aftermath. Customers deserve the comfort and the peace of mind
10 associated with the safe and reliable provision of natural gas service. The
11 transaction provides this critical benefit to customers.

12 Additionally, the transaction will not have an adverse impact on employment. In
13 accordance with the terms of the APA, Eversource will offer employment to all
14 Bay State Gas non-union employees in good standing. For non-union employees,
15 Eversource will offer employment on terms and condition, including wages and
16 benefits, that are substantially comparable in the aggregate to similarly situated
17 Eversource employees. For union employees covered by a collective bargaining
18 agreement, the offers of employment shall be on terms established by Eversource
19 that are substantially comparable in the aggregate to Eversource's union employees

1 in Massachusetts. Following closing, each transferring employee shall be able to
2 participate in Eversource's benefit plans.

3 In addition, all non-union, former Columbia Gas employees who accept
4 employment with Eversource upon the closing will be covered by the existing
5 Eversource Energy severance plan to the same extent and in the same situations as
6 current Eversource employees currently are. If appropriately triggered, the
7 severance pay due to the Bay State Gas employee would be calculated based on the
8 employee's combined service between Bay State Gas and Eversource. Eversource
9 has not made any final determinations as to whether it will need to institute a
10 minimum term of employment by Eversource before qualifying for the plan.
11 Eversource is planning for the continued availability of Bay State Gas employees
12 and is seeking to avoid the loss of human resources at the outset of the change in
13 control because workforce stability will be critical in maintaining safe and reliable
14 service to all customers of both Bay State Gas and NSTAR Gas Company,
15 immediately following the acquisition.

16 Under the Eversource Energy Severance Plan, Eversource employees are eligible
17 for a severance payment of two weeks' pay for each year of eligible service up to a
18 maximum of 52 weeks, as well as continuation of medical, dental and vision plan
19 coverage in effect at date of termination under Employer's Plan and at the employee
20 contribution rates for a six-month period. Employees are also offered out-

1 placement services provided by an approved third-party vendor, paid by
2 Eversource. Given that Eversource has committed to extend an offer of
3 employment to all employees of Bay State Gas (as detailed in the APA), it is not
4 expected that extending coverage to Bay State Gas employees under the existing
5 plan will have a significant cost impact.

6 More generally, the Bay State Gas operations will benefit through the local control
7 and management provided by Eversource. Under Eversource's guidance and
8 control, Eversource will be attuned to the unique needs, concerns and expectations
9 of its customers. With the improved rate stability and service quality anticipated to
10 result over the coming years as a result of the transaction, the transaction should
11 produce a positive economic benefit in the Bay State Gas service territory.

12 **Q. Did Eversource consider any alternatives to the acquisition as set out in the**
13 **APA?**

14 A. No. The testimony of Joint Petitioner Witness Shawn Anderson discusses the
15 process that NiSource conducted to result in the proposed transaction. As he
16 discusses, the only alternative to the transaction would be for Bay State Gas to
17 remain on a standalone basis, as part of the NiSource organization, in which case
18 customers would see none of the above-described benefits.

1 **Q. Will the transaction have a positive impact on long-term strategies that will**
2 **assure a reliable and cost-effective energy delivery system?**

3 A. Yes. The transaction will have a positive effect on the provision of reliable and
4 cost-effective gas service to Bay State Gas customers and will sustain the quality
5 of service provided to these customers. The key to maintaining a safe and reliable
6 system is the consistent and sufficient investment of capital by utility managers.
7 Eversource, with its strong financial profile, operating expertise and local presence
8 will continue making the necessary investments to ensure safe and reliable
9 performance of the Bay State Gas distribution system. A detailed discussion of the
10 qualitative net benefits associated with the transaction is discussed in the testimony
11 of Mr. Akley and Ms. Conner on behalf of the Joint Petitioners.

12 **V. REPORTING**

13 **Q. How is Eversource proposing to report on actual transaction costs incurred to**
14 **complete the acquisition?**

15 A. Eversource is proposing to report actual transaction costs by account to the
16 Department in a compliance filing made within 90 days of the close of the proposed
17 transaction.

18 **Q. Is Eversource proposing to report on transition and integration progress**
19 **following the transaction close?**

20 A. Yes. Eversource is proposing to produce annual reports for each calendar year
21 following closing describing the transition and integration progress made in the

1 prior calendar year. The annual reports will be submitted to the Department and to
2 the Attorney General no later than January 31 of each year reporting on the prior
3 year's progress.

4 Additionally, at least 90 days prior to the filing of the complete base-rate
5 proceeding anticipated for rates effective November 1, 2030, EGMA shall submit
6 a final integration and savings report to the Department and the Attorney General
7 quantifying the O&M cost savings achieved over the 10 years subsequent to
8 closing. The integration and savings report will follow the format established for
9 the merger of Northeast Utilities and NSTAR in 2012.

10 **Q. Will Eversource commit to reporting on facility closings and involuntary**
11 **employee separations following the Transaction close?**

12 A. Yes. As an initial matter, Eversource is committing that there will be no
13 involuntary employee separations for a period of one year following the
14 Transaction closing. In the event of a facility closing or involuntary separation of
15 employees as part of a corporate reorganization by Eversource Gas after the first
16 year, 30-day advance notice of such action would be provided to the Attorney
17 General.

18 **VI. CONCLUSION**

19 **Q. Does this conclude your testimony?**

20 A. Yes, it does.

**Columbia Gas of Massachusetts
Rate Base Summary
Test Year December 31, 2019**

<u>Line No.</u>	<u>Description</u> (1)	<u>Rate Base as of 12/31/2019</u> (2) \$
1	<u>Additions</u>	
2	Utility Plant in Service	1,980,405,403
3	Special Fund - Acct 151 Heel Gas	1,992,602
4	Cash Working Capital	19,664,879
5	Material & Supplies (13-Month Average)	<u>288,129</u>
6	Total Additions	<u>2,002,351,013</u>
7	<u>Deductions</u>	
8	Plant Held for Future Use	0
9	Reserves:	
10	Depreciation	614,263,765
11	Amortization of Intangible Plant	0
12	Deferred Taxes & EDIT	243,306,649
13	Unamortized Pre-1971 ITC	0
14	Contribution in Aid of Construction	8,642,775
15	Customer Advances	6,905
16	Customer Deposits	3,257,177
17	Unclaimed Checks	<u>602,376</u>
18	Total Deductions	<u>870,079,647</u>
19	Total Rate Base	<u>1,132,271,367</u>

**Eversource Gas Company of Massachusetts
Rate Base Offset ⁽¹⁾**

Line (A)	Year (B)	RBO Beginning Balance ^{(2),(3)} (C)	RBO Annual Amortization ⁽⁴⁾ (D)	Rate Base Offset Ending Balance (E) = (C) - (D)	ADIT Stepped-Up Basis ⁽⁵⁾ (F)	Rate Base Offset Adjusted for ADIT Stepped-Up Basis (G) = (E) - (F)
1	2021	\$ 194,421,108	\$ 9,721,055	\$ 184,700,053	\$ -	\$ 184,700,053
2	2022	184,700,053	9,721,055	174,978,997	-	174,978,997
3	2023	174,978,997	9,721,055	165,257,942	-	165,257,942
4	2024	165,257,942	9,721,055	155,536,886	-	155,536,886
5	2025	155,536,886	9,721,055	145,815,831	-	145,815,831
6	2026	145,815,831	9,721,055	136,094,776	-	136,094,776
7	2027	136,094,776	9,721,055	126,373,720	-	126,373,720
8	2028	126,373,720	9,721,055	116,652,665	-	116,652,665
9	2029	116,652,665	9,721,055	106,931,609	-	106,931,609
10	2030	106,931,609	9,721,055	97,210,554	-	97,210,554
11	2031	97,210,554	9,721,055	87,489,499	-	87,489,499
12	2032	87,489,499	9,721,055	77,768,443	-	77,768,443
13	2033	77,768,443	9,721,055	68,047,388	-	68,047,388
14	2034	68,047,388	9,721,055	58,326,332	-	58,326,332
15	2035	58,326,332	9,721,055	48,605,277	-	48,605,277
16	2036	48,605,277	9,721,055	38,884,222	-	38,884,222
17	2037	38,884,222	9,721,055	29,163,166	-	29,163,166
18	2038	29,163,166	9,721,055	19,442,111	-	19,442,111
19	2039	19,442,111	9,721,055	9,721,055	-	9,721,055
20	2040	9,721,055	9,721,055	(0)	-	(0)
		\$ 194,421,108		\$ -		

Notes:

(1) The Rate Base Offset ("RBO") will be recorded to Account 253; the annual amortization will be recorded to Account 425.

(2) The Rate Base Offset is estimated at \$194,421,108 as of 12/31/19, per Settlement-AGO-1-17 (Revised). The actual Rate Base Offset will be derived in accordance with Section 2.5 of the Settlement Agreement.

(3) In ratesetting proceedings where the RBO is applicable, the RBO will be applied consistent with an allocation among rate base, GSEP and HOPCO.

(4) Eversource will amortize the RBO on a straight-line basis over 20 years from the date of Closing.

(5) To the extent that EGMA accumulates ADIT associated with the stepped-up basis arising from the Transaction, this amount would be deducted from the RBO during the rate-setting process occurring in any year of the 20-year amortization period. Therefore, this column will be updated over time.

Joint Petitioners' Net Benefit Analysis

		Confidential - Summary of Quantifiable Net Benefits											
		(in millions)											
Line	Description	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Cumulative	
		2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	
1	CMA Avoided Rate Cases	\$ -	\$ 59	\$ 59	\$ 59	\$ 93	\$ 93	\$ 93	\$ 140	\$ 140	\$ 140	\$ -	\$ 876
2	Annual O&M Savings Achieved by Year 10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 40	\$ 40
3	Refund of Retroactive Tax Benefit for D.P.U. 18-45		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4	Implementation of D.P.U. 18-45 Settlement as of 11/1/2020	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5	Rate Case Effective 12/1/2021 (2018-2019/20) includes 2017 deficiency		\$ -	\$ (56)	\$ (56)	\$ (56)	\$ (56)	\$ (56)	\$ (56)	\$ (56)	\$ (56)	\$ -	\$ (444)
6	Annual Capital Recovery (starting 11/1/2022)		\$ -	\$ -	\$ (10)	\$ (18)	\$ (26)	\$ (34)	\$ (41)	\$ (49)	\$ (55)	\$ -	\$ (234)
7	Reduction from Gas Portfolio Consolidation	\$ -	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 20
8	Payment in Lieu of Penalties		\$ 22										\$ 22
9	Subtotal - Net Quantifiable Benefits	\$ -	\$ 83	\$ 5	\$ (4)	\$ 21	\$ 13	\$ 5	\$ 45	\$ 38	\$ 31	\$ 42	\$ 281

- 1 + Assumes CMA rate filing in 2020 for new rates as of 1/1/2021 (on a standalone basis). Calculated as D.P.U. 18-45 Settlement results, plus additional increases in cost of service since 2017 test year. Avoided rate cases calculated as non-GSEP rev req from D.P.U. 18-45 Settlement, using AG-1-18 capital forecast; assumes rate case every 3 years per history
- 2 + O&M Savings achieved by Year 10 rate case; assumes 15% of Year 10 O&M of \$268M.
- 3 No refund of retroactive tax benefit reserved for customers in D.P.U. 18-45 Settlement.
- 4 No implementation of provisions of D.P.U. 18-45 Rate Settlement as of 11/1/2020
- 5 - Rate case for capital completed thru 2019/2020, with rates effective Dec 2021. Analysis assumes 2018 - 2020 non-GSEP capital from AG -18 with additional \$100M, 2022 reflects NSTAR Gas non-GSEP capital Includes O&M increases from 2017 level
- 6 - Annual capital recovery beginning Nov 2022, assumes 2021 non-GSEP capital from AG-18, then NSTAR Gas non-GSEP capital for 2022 forward
- 7 + Placeholder for CGAC savings; study is ongoing.
- 8 + Payment in Lieu of Penalties
- 9 + Total over 10 years

Note: rate changes effective November (Lines 4, 5, and 6) are presented in the table as taking effect on January for ease of presentation and calculation.

Joint Petitioners' Net Benefit Analysis

Assumptions:

CMA capital expenditure is taken from AG-1-18 in D.P.U. 18-45

Capex beyond 2022 is computed using 2018 - 2022 CAGR from 2022 capital level

NSTAR Gas capital forecast is taken from AG-1-18 in D.P.U. 19-120

Capex beyond 2023 is computed using 2019 - 2023 CAGR from 2023 capital level

CMA Capital Expenditures	Trend @ CAGR												
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>
Total Capex	144.5	150.1	167.6	188.1	210.8	231.9	255.1	280.6	308.7	339.6	373.5	410.9	452.0
GSEP	90.0	97.5	109.7	120.4	131.1	144.2	158.6	174.5	191.9	211.1	232.3	255.5	281.0
Non-GSEP	54.5	52.6	57.9	67.7	79.7	87.7	96.5	106.1	116.7	128.4	141.3	155.4	170.9
Total Capital CAGR (2018-2022)						9.9%							
GSEP CAGR (2018-2022)						9.9%							
Non-GSEP CAGR (2018-2022)						10.0%							

NSTAR Gas Capital Expenditures	Trend @ CAGR											
	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>
Total Capex	193.0	206.0	244.0	230.0	240.0							
GSEP	93.0	112.0	126.0	130.0	137.0							
Non-GSEP	100.0	94.0	118.0	100.0	103.0	103.8	104.5	105.3	106.1	106.9	107.7	108.5
Total Capital CAGR (2019-2023)						5.60%						
GSEP CAGR (2019-2023)						10.17%						
Non-GSEP CAGR (2019-2023)						0.74%						

Joint Petitioners' Net Benefit Analysis

Confidential - Cost of Service Assumptions (Non-GSEP)

Annual Non-GSEP capital investments from CMA rate case filing	
Depreciation rate (DPU 18-45)	2.93% annual return
Property taxes as % of net plant (rate case)	2.67%
Statutory tax rate	27.32%
2017 test year O&M (excluding reconciling items)	\$ 149 148,9715
2014 test year O&M (excluding reconciling items)	\$ 130 130,0394
O&M 3 yr CAGR 2014-2017	4.63%
Excess EDIT amortization	2.4 36 years
Annual reduction in 2017 ADIT balance	4.7 36 years
2017 depreciation level DPU 18-45	\$ 48
Depreciation from D.P.U. 18-45	64.5
Amortization from D.P.U. 18-45	3.5
Total Dep & Amort	48.4

Return on rate base (incl tax gross up on equity)

LTD	46.75%	5.0%	2.34%
Equity	53.25%	9.70%	2.11%
			9.45%

	1	2	3	4	5	6	7	8	9	10	11	12	13
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Annual increase Non-GSEP investments	\$ 154.5	\$ 52.6	\$ 57.9	\$ 67.7	\$ 79.7	\$ 87.7	\$ 96.5	\$ 106.1	\$ 116.7	\$ 128.4	\$ 141.3	\$ 155.4	\$ 170.9
Cumulative Non-GSEP investments	155	207	265	333	412	500	597	703	820	948	1,089	1,245	1,416
Accumulated Depreciation (2017 depreciation level)	(48)	(97)	(145)	(194)	(242)	(290)	(339)	(387)	(436)	(484)	(533)	(581)	(629)
Accumulated Depreciation - incremental plant	(2)	(8)	(14)	(23)	(34)	(48)	(64)	(83)	(105)	(131)	(161)	(195)	(234)
Net plant increase from 2018	\$ 104	\$ 103	\$ 105	\$ 116	\$ 136	\$ 162	\$ 194	\$ 233	\$ 279	\$ 333	\$ 396	\$ 469	\$ 552
Change in Excess Deferred Tax	2	5	7	10	12	15	17	20	22	24	27	29	32
Changes in ADIT (from 2017 level)	5	9	14	19	23	28	33	37	42	47	51	56	61
ADIT from capital additions	(1)	(3)	(6)	(9)	(12)	(16)	(21)	(26)	(32)	(39)	(47)	(55)	(65)
ADIT - subtotal	\$ 6	\$ 11	\$ 16	\$ 20	\$ 23	\$ 26	\$ 29	\$ 31	\$ 32	\$ 32	\$ 32	\$ 30	\$ 28
Net increases in Non - GSEP rate base from 2017	110	114	121	136	160	188	223	263	311	365	428	499	580
Return on rate base (including taxes)	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%
Return on rate base	10	11	11	13	15	18	21	25	29	34	40	47	55
Depreciation expense	2	5	7	9	11	13	16	19	22	26	30	34	39
Property taxes	-	3	3	3	3	4	4	5	6	7	9	11	13
O&M increases	-	7	14	22	30	38	47	56	65	75	85	96	108
Subtotal	\$ 20	\$ 33	\$ 43	\$ 54	\$ 67	\$ 81	\$ 97	\$ 114	\$ 133	\$ 153	\$ 175	\$ 200	\$ 226

Rate increase March 2021 (2019 test year)				33	33	33	33	33	33	33	33	33	33
Rate increase 2025 (2023 TY)							34	34	34	34	34	34	34
Rate increase 2028 (2026 TY)										47	47	47	47
Rate increase 2030 (2028 TY)													61
subtotal - incremental rate increases on non gsep	\$ -	\$ -	\$ -	\$ 33	\$ 33	\$ 33	\$ 67	\$ 67	\$ 67	\$ 114	\$ 114	\$ 114	\$ 175
assumed net rate increase from DPU 18-45 settlement	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26	\$ 26
cumulative rate increase	\$ 59	\$ 59	\$ 59	\$ 59	\$ 93	\$ 93	\$ 93	\$ 140	\$ 140	\$ 140	\$ 140	\$ 201	\$ 201

Incremental ADIT Calculation

Book Depreciation on capital additions	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
2018 capital additions	2.26	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53
2019 capital additions	-	0.77	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54
2020 capital additions	-	-	0.85	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70
2021 capital additions	-	-	-	0.99	1.98	1.98	1.98	1.98	1.98	1.98	1.98	1.98	1.98
2022 capital additions	-	-	-	-	1.17	2.34	2.34	2.34	2.34	2.34	2.34	2.34	2.34
2023 capital additions	-	-	-	-	-	1.29	2.57	2.57	2.57	2.57	2.57	2.57	2.57
2024 capital additions	-	-	-	-	-	-	1.41	2.83	2.83	2.83	2.83	2.83	2.83
2025 capital additions	-	-	-	-	-	-	-	1.55	3.11	3.11	3.11	3.11	3.11
2026 capital additions	-	-	-	-	-	-	-	-	1.71	3.42	3.42	3.42	3.42
2027 capital additions	-	-	-	-	-	-	-	-	-	1.88	3.76	3.76	3.76
2028 capital additions	-	-	-	-	-	-	-	-	-	-	2.07	4.14	4.14
2029 capital additions	-	-	-	-	-	-	-	-	-	-	-	2.28	4.55
2030 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	2.50
Depreciation expense on capital additions from 2018	2	5	7	9	11	13	16	19	22	26	30	34	39
Tax Depreciation on capital additions	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
2018 capital additions	6	11	10	10	9	8	8	7	7	7	7	7	7
2019 capital additions	-	2	4	4	3	3	3	2	2	2	2	2	2
2020 capital additions	-	-	2	4	4	4	3	3	3	3	3	3	3
2021 capital additions	-	-	-	3	5	5	4	4	4	3	3	3	3
2022 capital additions	-	-	-	-	3	6	5	5	5	4	4	4	4
2023 capital additions	-	-	-	-	-	3	6	6	5	5	5	4	4
2024 capital additions	-	-	-	-	-	-	4	7	6	6	6	5	5
2025 capital additions	-	-	-	-	-	-	-	4	8	7	7	6	6
2026 capital additions	-	-	-	-	-	-	-	-	4	8	8	7	7
2027 capital additions	-	-	-	-	-	-	-	-	-	5	9	9	8
2028 capital additions	-	-	-	-	-	-	-	-	-	-	5	10	9
2029 capital additions	-	-	-	-	-	-	-	-	-	-	-	6	11
2030 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	6
Tax depreciation on capital additions from 2018	6	13	16	20	24	28	33	38	44	51	58	66	74
Annual book tax difference	(4)	(8)	(9)	(11)	(13)	(15)	(17)	(19)	(22)	(25)	(28)	(32)	(35)
cumulative book tax difference	(4)	(11)	(21)	(32)	(45)	(60)	(77)	(96)	(118)	(142)	(170)	(202)	(237)
Tax effected	(1)	(3)	(6)	(9)	(12)	(16)	(21)	(26)	(32)	(39)	(47)	(55)	(65)

MACRS - 20 years	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
	3.75%	7.22%	6.68%	6.18%	5.71%	5.29%	4.89%	4.52%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	2.23%

2017 O&M	\$ 149.0
O&M forecast using CAGR	155.88
O&M forecast using CAGR	163.10
O&M forecast using CAGR	170.66
O&M forecast using CAGR	178.57
O&M forecast using CAGR	186.85
O&M forecast using CAGR	195.51
O&M forecast using CAGR	204.57
O&M forecast using CAGR	214.05
O&M forecast using CAGR	223.97
O&M forecast using CAGR	234.35
O&M forecast using CAGR	245.21
O&M forecast using CAGR	256.58
O&M forecast using CAGR	268.47
Cumulative increase over 2017 level	6.90
Cumulative increase over 2017 level	14.13
Cumulative increase over 2017 level	21.69
Cumulative increase over 2017 level	29.60
Cumulative increase over 2017 level	37.87
Cumulative increase over 2017 level	46.53
Cumulative increase over 2017 level	55.60
Cumulative increase over 2017 level	65.08
Cumulative increase over 2017 level	75.00
Cumulative increase over 2017 level	85.38
Cumulative increase over 2017 level	96.24
Cumulative increase over 2017 level	107.60
Cumulative increase over 2017 level	119.50

Joint Petitioners' Net Benefit Analysis

Confidential - Rate case reset (Non-GSEP) add \$100M to 2018

Depreciation rate (DPU 18-45)	2.93% annual return	Return on rate base (incl tax gross up on equity)			
Property taxes as % of net plant (rate case)	2.67%	LTD	46.75%	5.0%	2.34%
Statutory tax rate	27.32%	Equity	53.25%	9.70%	7.11%
Excess deferred tax amortization	2.4 36 years	9.45%			
2017 ADIT balance / rate base offset annual change	4.7 8.4 36 years then 20 years				
2017 depreciation level DPU 18-45	\$ 48				
depreciation from DPU 18-45	44.9				
amortization from DPU 18-45	3.5				
total dep & amort	48.4				

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Annual increase Non-GSEP investments	\$ 155	\$ 53	\$ 58	\$ 68	\$ 100								
Cumulative Non-GSEP investments	155	207	265	333	433								
Accumulated Depreciation (2017 depreciation level)	(48)	(97)	(145)	(194)	(242)								
Accumulated Depreciation - incremental plant	(2)	(8)	(14)	(23)	(34)								
Non GSEP Net plant increase from 2018	\$ 104	\$ 103	\$ 105	\$ 116	\$ 156	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Change in Excess Deferred Tax	2	5	7	10	12								
Changes in ADIT / rate base offset (from 2017 level)	5	9	14	22	31								
ADIT from capital additions	(1)	(3)	(6)	(9)	(12)								
ADIT - subtotal	\$ 6	\$ 11	\$ 16	\$ 24	\$ 31	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net changes in rate base from 2017 (non-GSEP) avg rate base	110	114	121	139	187	-	-	-	-	-	-	-	-
	54.99	112	117	130	163								
Return on rate base (including taxes)	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%	9.4%
Return on rate base	10	11	11	13	18	-	-	-	-	-	-	-	-
Depreciation expense	2	5	7	9	11								
Property taxes	-	3	3	3	3	4	-	-	-	-	-	-	-
O&M increases	3	7	9	-	-	-	-	-	-	-	-	-	-
Subtotal	16	26	29.5	25	32	4	-	-	-	-	-	-	-
Add 2017 deficiency subtotal			26.0										
Rate Increase for rate case based on 2019/2020	\$ -	\$ -	\$ -	\$ -	\$ 56	\$ 56	\$ 56	\$ 56	\$ 56	\$ 56	\$ 56	\$ 56	\$ 56

Incremental ADIT Calculation

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Book Depreciation on capital additions	2.26	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53	4.53
2018 capital additions	-	0.77	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54	1.54
2019 capital additions	-	-	0.85	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70	1.70
2020 capital additions	-	-	-	0.99	1.98	1.98	1.98	1.98	1.98	1.98	1.98	1.98	1.98
2021 capital additions	-	-	-	-	1.47	2.93	2.93	2.93	2.93	2.93	2.93	2.93	2.93
2022 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2023 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2024 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2025 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2026 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2027 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2028 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2029 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2030 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
Depreciation expense on capital additions from 2018	2.26	5.30	6.92	8.76	11.21	12.68	12.68	12.68	12.68	12.68	12.68	12.68	12.68
Tax Depreciation on capital additions	5.79	11.15	10.32	9.54	8.83	8.17	7.55	6.99	6.89	6.89	6.89	6.89	6.89
2018 capital additions	-	1.97	3.79	3.51	3.25	3.00	2.78	2.57	2.38	2.35	2.34	2.35	2.34
2019 capital additions	-	-	2.17	4.18	3.87	3.58	3.31	3.06	2.83	2.62	2.58	2.58	2.58
2020 capital additions	-	-	-	2.54	4.89	4.52	4.18	3.87	3.58	3.31	3.06	3.02	3.02
2021 capital additions	-	-	-	-	3.75	7.22	6.68	6.18	5.71	5.29	4.89	4.52	4.46
2022 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2023 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2024 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2025 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2026 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2027 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2028 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2029 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
2030 capital additions	-	-	-	-	-	-	-	-	-	-	-	-	-
Depreciation expense on capital additions from 2018	5.8	13.1	16.3	19.8	24.6	26.5	24.5	22.7	21.4	20.5	19.8	19.4	19.3
Annual book tax difference	(4)	(8)	(9)	(11)	(13)	(14)	(12)	(10)	(9)	(8)	(7)	(7)	(7)
cumulative book tax difference	(4)	(11)	(21)	(32)	(45)	(59)	(71)	(81)	(89)	(97)	(104)	(111)	(118)
Tax effected	(1)	(3)	(6)	(9)	(12)	(16)	(19)	(22)	(24)	(27)	(28)	(30)	(32)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
MACRS - 20 years	3.75%	7.22%	6.68%	6.18%	5.71%	5.29%	4.89%	4.52%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	4.46%	2.23%

2017 O&M	\$ 149.0
O&M forecast using CAGR	152.42 155.96 159.57
Cumulative increase over 2017 level	3.45 6.98 10.60
average O&M 2019/2020	8.79158

historical level of O&M increase	4.63%
50% of historical level	2.32%

Joint Petitioners' Net Benefit Analysis

Confidential - O&M Savings

2017 O&M before reconciling mechanisms (see below)	149
year 2030	268
Assumed savings %	15%
customer benefit	\$ 40

2017 O&M before reconciling mechanisms (line 32)	149.0	DPU 18-45, Exh. CMA TLS-2, Schedule TLS-5, page 1 of 20
2014 O&M before reconciling mechanisms (line 32)	130.0	DPU 15-50, Exh. CMA TLS-2, Schedule TLS-5, page 1 of 25
CAGR 2015-2017	4.63%	
2030 O&M inflated at CAGR	\$ 268.5	

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Petition of Eversource Energy, NiSource Inc.,)
Eversource Gas of Massachusetts, and Bay) D.P.U. 20-59
State Gas Company d/b/a Columbia Gas of)
Massachusetts for Approval of Purchase and)
Sale of Assets Pursuant to General Laws)
Chapter 164, § 96 and § 94)

DIRECT TESTIMONY OF

Shawn Anderson

Transaction Overview

On behalf of

Joint Petitioners

**Eversource Energy, NiSource Inc.
Eversource Gas of Massachusetts
Bay State Gas Company d/b/a Columbia Gas of Massachusetts**

July 2, 2020

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

DIRECT TESTIMONY OF

SHAWN ANDERSON

1 **I. INTRODUCTION**

2 **Q. Please state your name, position and business address.**

3 A. My name is Shawn Anderson. I am the Senior Vice President, Chief Strategy and Risk
4 Officer of NiSource Inc. (“NiSource”), which is the parent company of Bay State Gas
5 Company d/b/a Columbia Gas of Massachusetts (“Bay State Gas” and together with
6 NiSource, the “Seller”). My business address is 290 West Nationwide Blvd, Columbus,
7 Ohio 43215.

8 **Q. What are your principal responsibilities in this position?**

9 A. As Senior Vice President, Chief Strategy and Risk Officer of NiSource, I am responsible
10 for overseeing NiSource's business strategy and financial risk management processes to
11 assess and drive strategic priorities and ensure alignment with work and financial plans,
12 particularly across NiSource’s regulated utility operations. As part of my responsibilities,
13 I participated in NiSource’s effort to identify a buyer for the Bay State Gas assets and to
14 negotiate the Asset Purchase Agreement (“APA”), executed by and among NiSource, Bay
15 State Gas and Eversource Energy (“Eversource”) on February 26, 2020. The APA is

1 provided as an exhibit to my testimony, designated as Exhibit JP-SA-2.

2 **Q. Please summarize your professional and educational background.**

3 A. In April 2010, I joined NiSource as a corporate financial planning manager and, since that
4 time, I have held positions of increasing responsibility within the organization. In February
5 2012, I was promoted to the position of Director of Regulatory Affairs, serving in that role
6 until January 2014 when I became Director of Regulatory Strategy. From March 2015 to
7 June 2016, I served as Vice President of Finance and Regulatory Affairs. From June 2016
8 to January 2019, I served as Treasurer and Chief Risk Officer. From January 1, 2019 to
9 May 31, 2020, I served as Vice President, Strategy and Chief Risk Officer. I assumed my
10 current responsibilities of Senior Vice President, Chief Strategy and Risk Officer on June
11 1, 2020. Prior to joining NiSource, I worked outside the utility industry in the area of
12 financial planning and analysis. I hold a Bachelor of Science degree in Business
13 Administration and Management from The Ohio State University and a Master of Business
14 Administration from Ohio University.

15 **Q. Have you previously testified before the Department of Public Utilities or other**
16 **regulatory agencies?**

17 A. No. I have not previously testified before the Department of Public Utilities (the
18 “Department”). I have provided testimony before the Public Utilities Commission of Ohio
19 in support of the operations of Columbia Gas of Ohio, an affiliated regulated utility

1 company within NiSource.

2 **Q. What is the purpose of your testimony?**

3 A. The purpose of my testimony is to support NiSource’s proposed sale of assets to
4 Eversource and Eversource Gas Company of Massachusetts (“EGMA”) (together with
5 NiSource and Bay State Gas, the “Joint Petitioners”).¹ My testimony demonstrates that the
6 sale is in the public interest and should be approved by the Department. Specifically, my
7 testimony: (1) describes the proposed transaction and discusses the reasons why NiSource
8 has decided to sell its Massachusetts business to another natural gas system operator in the
9 Commonwealth; (2) provides an overview of the process undertaken to effect the sale;
10 (3) reviews the overall benefits of the sale for Bay State Gas customers and endorses the
11 net-benefit analysis presented in the testimony of Eversource Witness Mr. Douglas P.
12 Horton; (4) discusses NiSource’s proposal for termination of pending enforcement and
13 compliance actions; and (5) provides the anticipated timeline for regulatory approvals and
14 closing.

15 **Q. Are you presenting any exhibits in support of your testimony?**

16 A. Yes. I am presenting the following exhibits as part of my testimony:

¹ EGMA is a wholly owned subsidiary of Eversource incorporated in Massachusetts on May 15, 2020, pursuant to G.L. c. 164, § 1 to own and operate the business of Bay State Gas.

Exhibit	Purpose
Exhibit JP-SA-1	Testimony of Shawn Anderson
Exhibit JP-SA-2	Asset Purchase Agreement
Exhibit JP-SA-3	NiSource Board of Director Approval of Transaction

1

2 **II. OVERVIEW OF THE PROPOSED TRANSACTION**

3 **Q. Please describe the NiSource organization.**

4 A. NiSource is an energy holding company under the Public Utility Holding Company Act of
5 2005, with subsidiaries that operate as regulated natural gas and electric utility companies
6 serving customers in seven states. NiSource’s electric and gas distribution operations serve
7 approximately 3.5 million customers. Through its wholly owned subsidiary NiSource Gas
8 Distribution Group, Inc., NiSource owns six distribution subsidiaries that provide natural
9 gas to approximately 2.7 million residential, commercial and industrial customers in
10 Kentucky, Maryland, Massachusetts, Pennsylvania, Ohio and Virginia. NiSource also
11 distributes natural gas to approximately 839,000 customers in northern Indiana through its
12 wholly owned subsidiary Northern Indiana Public Service Company LLC (“NIPSCO”).
13 On the electric side, NiSource generates, transmits and distributes electricity through its
14 NIPSCO subsidiary to approximately 476,000 customers in 20 counties in the northern part
15 of Indiana.

16 **Q. Please describe the Bay State Gas operation.**

17 A. Bay State Gas is one of the seven energy delivery companies within the NiSource
18 enterprise. Bay State Gas operates as Columbia Gas of Massachusetts, serving

1 approximately 330,000 natural gas customers in more than 60 communities in southeastern
2 Massachusetts, the greater Springfield area and the Merrimack Valley. Bay State Gas is
3 headquartered in Westborough, Massachusetts.

4 **Q. Please describe the APA and how it will work to convey the Bay State Gas assets to**
5 **Eversource.**

6 A. On February 26, 2020, NiSource and Bay State Gas entered into the APA with Eversource,
7 a Massachusetts voluntary association. Upon the terms and subject to the conditions set
8 forth in the APA, NiSource and Bay State Gas have agreed to sell to Eversource, and
9 Eversource has agreed to purchase, with certain additions and exceptions: (1) substantially
10 all of the assets of Bay State Gas; and (2) all of the assets held by any Bay State Gas affiliate
11 that primarily relates to the business of storing, distributing or transporting natural gas to
12 residential, commercial and industrial customers in Massachusetts, as conducted by Bay
13 State Gas (all of the assets being sold to Eversource under the APA, the “Bay State
14 Assets”).

15 As part of the agreement, Eversource will assume certain liabilities of Bay State Gas and
16 its affiliates. However, subject to the terms and conditions of the APA, Eversource will
17 not assume any liabilities arising out of the Greater Lawrence Incident (as defined in the
18 APA), as discussed in more detail below. The APA provides for a purchase price of \$1.1
19 billion in cash, subject to adjustment based on the Bay State Gas net working capital as of
20 the closing date. The transaction is subject to regulatory approvals, resolution of certain
21 proceedings before governmental bodies, and other conditions.

1 **Q. Why has NiSource decided to sell the Bay State Assets at this time?**

2 A. Across the network, NiSource has made substantial progress to enhance its public-safety
3 focus, including accelerating the implementation of a Safety Management System. These
4 efforts are a number one priority at NiSource. These enterprise-wide efforts include the
5 Massachusetts operations and NiSource and Bay State Gas have taken significant
6 restoration and safety steps over the past 18 months as a result of the Greater Lawrence
7 Incident. However, the hard reality is that the Greater Lawrence Incident has led customers
8 and other important stakeholders to lose trust in NiSource's Massachusetts operations.
9 After thoroughly examining the potential for continuing these operations in the
10 environment following the Greater Lawrence Incident, the NiSource Board of Directors
11 decided that a transfer of ownership would be in the best long-term interest of customers,
12 employees and shareholders.

13 Within this context, NiSource understands from experience that state-regulated retail utility
14 service involves unique challenges that must be met with specific skills and experience. In
15 Eversource, NiSource has found a partner with a proven track record of investing in its
16 infrastructure; a firm commitment to safety; and a focus on local operations to enhance
17 system reliability. The sale of the Bay State Assets is designed to place the assets in the
18 hands of a gas operator with the particular skills and experience needed to provide safe and
19 reliable service to Massachusetts customers, while enabling NiSource to focus its resources
20 on operations on the balance of its service area.

1 **Q. How will the transaction take effect?**

2 A. Under the terms of APA, on the closing date, Seller will convey to Eversource (or its
3 assignee) all of its right, title and interest in the Bay State Assets, including all of Bay State
4 Gas' owned real property, real property leases, easements, machinery, equipment
5 (including information technology, communications equipment and computers), vehicles
6 and other personal property; Bay State Gas-owned intellectual property; contracts to which
7 Bay State Gas is a party; and permits and franchises held by Bay State Gas (to the extent
8 transferable). The Bay State Assets are described in more detail in Section 2.1 of the APA.
9 All assets held by affiliates of Bay State Gas that are not primarily related to Bay State
10 Gas' business will be retained by NiSource and its affiliates.

11 **Q. Will Eversource assume certain obligations and liabilities of NiSource or Bay State**
12 **Gas?**

13 A. Yes. Eversource will assume all of Bay State Gas' liabilities except as specifically
14 provided in the APA. Liabilities that will be assumed by Eversource include current
15 liabilities of Bay State Gas to the extent reflected in its net working capital calculated under
16 the APA; liabilities under leases; certain loans in favor of NiSource; liabilities to refund or
17 credit amounts to customers through rates and charges in future periods; and obligations
18 under applicable orders of any governmental bodies (except as related to excluded
19 liabilities, as described below).

1 **Q. Are there obligations and liabilities that Eversource will not assume as a result of the**
2 **transaction?**

3 A. Yes. There are obligations and liabilities that Eversource will not assume under the APA.
4 For example, subject to the terms and conditions of the APA, neither Eversource nor
5 EGMA will assume any liability arising out of or related to the Greater Lawrence Incident
6 and any further emergency events prior to closing related to the restoration and
7 reconstruction with respect to the Greater Lawrence Incident, including any losses “arising
8 out of or related to any litigation, demand, cause of action, claim, suit, investigation,
9 proceeding, indemnification agreements or rights related to the Greater Lawrence Incident”
10 (Exhibit JP-SA-2, at 18 (Section 2.1(d)(ix)).

11 Specifically, the APA defines the “Greater Lawrence Incident” as the events described in
12 the Department’s Order on Scope, dated December 23, 2019 (D.P.U. 19-141), including
13 the fires and explosions that occurred on September 13, 2018 in Lawrence, Andover and
14 North Andover, Massachusetts related to the delivery of natural gas by Bay State Gas and
15 the subsequent shut-down of Bay State Gas’ affected gas delivery system by September
16 14, 2018, Bay State Gas’ restoration and recovery efforts undertaken in response thereto
17 from and including September 14, 2018, and the gas leak that occurred on September 27,
18 2019 on a main that Bay State Gas installed during such efforts and the restoration of
19 outages resulting from such leak (Exhibit JP-SA-2, at 6).

20 In addition, Eversource will not assume any liability of Seller or its affiliates pursuant to
21 civil claims for injury of persons or damage to property to the extent such injury or damage

1 occurs prior to the closing, as well as any monetary obligations to the extent arising out of
2 or related to the non-compliance with environmental permits and environmental laws
3 described in the APA to the extent such non-compliance occurs prior to the closing.

4 The Seller and the Buyer will each be responsible for their own transaction expenses under
5 the APA.

6 **Q. How will the final purchase price be determined?**

7 A. Under the terms of the APA, the \$1.1 billion purchase price is subject to adjustment based
8 on the Bay State Gas actual net working capital at the time of closing. The estimated
9 purchase price will be paid by wire transfer at closing, with a post-closing true-up based
10 on Bay State Gas' actual net working capital on the closing date. The purchase price
11 represents a loss compared to the book value of Bay State Gas.

12 **Q. Does the APA contain any special provisions related to Bay State Gas employees?**

13 A. Yes. Under the agreement, Eversource is required to offer employment to all business
14 employees in good standing. For union employees covered by a collective bargaining
15 agreement, the offers of employment are required to be on terms and conditions established
16 by Eversource that include wages and benefits that are substantially comparable in the
17 aggregate to those applicable to Eversource's union employees in Massachusetts. For
18 nonunion employees, Eversource is obligated to offer employment on terms and
19 conditions, including wages and benefits, that are substantially comparable in the aggregate
20 to similarly situated Eversource employees. Following closing, each transferring employee

1 will be able to participate in Eversource's post-employment employee health and welfare
2 benefit plans.

3 **Q. Does the APA contain any other arrangements to ensure that there will be no**
4 **interruption or change in the provision of utility services while the transaction is**
5 **pending?**

6 A. Yes. With limited exceptions, until the close of the transaction, Bay State Gas is obligated
7 to use its commercially reasonable efforts to (1) operate its business in the ordinary course
8 substantially in the same manner as conducted prior to the execution of the APA and
9 (2) preserve its business and goodwill of the suppliers, contractors, licensors, employees,
10 customers, distributors and others having business relations with Bay State Gas. As such,
11 Bay State Gas plans to continue to remain focused on driving customer safety and service
12 in Massachusetts, as well as continuing to make ongoing enhancements in all areas of
13 operations going forward. Bay State Gas will continue to provide service as it does today
14 and will be supported by NiSource throughout the duration of the transaction approval
15 process. In addition, the Joint Petitioners have agreed to enter into a transition service
16 agreement, whereby NiSource will provide necessary support to Eversource post-closing,
17 as may be requested by Eversource, to facilitate an efficient and seamless transfer of
18 ownership. The form of the transition service agreement is an exhibit to the APA and
19 included in Exhibit JP-SA-2.

1 **III. OVERVIEW OF THE SALE PROCESS**

2 **Q. How did NiSource determine that Eversource would be the most qualified purchaser**
3 **of its Massachusetts assets?**

4 A. In assessing its long-term strategy for the Massachusetts gas distribution business,
5 NiSource began a process in April 2019 to gauge a level of interest among companies
6 deemed by NiSource to be qualified to carry out gas distribution in Massachusetts.
7 NiSource requested that these companies to submit bids for its Massachusetts gas
8 distribution business. Eversource elected not to participate in the process, and NiSource
9 ultimately determined not to proceed with a sale of Bay State Gas at that time.

10 Subsequently, in November 2019, NiSource contacted Eversource directly to discuss a
11 potential sale, and the parties agreed to enter into negotiations on an exclusive basis.
12 Eversource is New England's largest energy delivery company serving approximately four
13 million electricity, natural gas and water customers in Connecticut, Massachusetts and New
14 Hampshire. With the addition of the Bay State Gas system, Eversource will serve
15 approximately 626,000 natural gas customers in Massachusetts across more than 60
16 communities. In light of the events following the Greater Lawrence Incident, NiSource
17 determined that Eversource would be the right partner to acquire the Bay State system.
18 Eversource has resources and facilities located in close proximity to Bay State Gas
19 customers and service areas, and fully recognizes the unique requirements of operating a
20 gas system in Massachusetts.

1 In addition, Eversource was directed by the Department to coordinate the restoration of
2 utility services in Lawrence, Andover and North Andover following the Greater Lawrence
3 Incident. As a result, NiSource determined that Eversource was well-positioned to step in
4 to operate the Bay State Assets safely and reliably; to work collaboratively with critical
5 stakeholders going forward; to incorporate best industry practices; and to bring substantial,
6 tangible benefits to Bay State Gas customers and opportunities for employees. Eversource
7 is one of the most respected energy companies in the country with a strong operational
8 track record in the New England area and Eversource is focused on investing in the Bay
9 State Gas system to further improve system operations, including to enhance safety,
10 pipeline integrity and reliability programs. From NiSource's perspective, these factors led
11 to the conclusion that Eversource was the most suitable party for the potential sale.

12 **Q. How did NiSource determine a sale price for the assets?**

13 A. The sale price of \$1.1 billion, subject to adjustments, represents the current, agreed upon
14 value of the Bay State Assets, taking into account all liabilities to be assumed by
15 Eversource. The price was negotiated by the parties on an arm's-length basis. Eversource
16 was unwilling to pay any more for the Bay State Assets.

17 **Q. How did NiSource determine that Eversource's proposal represented the best**
18 **outcome for Bay State Gas customers?**

19 A. In its negotiations with Eversource, NiSource recognized that Eversource's purchase of the
20 Bay State Assets would be a significant step in expanding Eversource's gas distribution
21 business in Massachusetts, which would mean that Eversource's internal resources,

1 considerable expertise, and management experience would be completely focused on
2 making the transaction a successful venture in the long run. This perspective was important
3 to NiSource because it understands that change is always difficult and stakeholders in
4 Massachusetts deserve a purchaser committed to achieving high standards of safety,
5 service quality and operational excellence and has a solid record for doing so with its
6 historic operations in Massachusetts. In addition, as described below, the transaction is in
7 the public interest and will provide net benefits to Bay State Gas customers.

8 **Q. Has NiSource also committed to sell its Massachusetts gas operations?**

9 A. Yes. On February 26, 2020, the U.S. Department of Justice (“DOJ”) announced that,
10 pursuant to a plea agreement, Bay State Gas Company pled guilty to certain federal pipeline
11 safety act violations in connection with the Greater Lawrence Incident. As part of that plea
12 agreement, Bay State Gas is required to pay a fine of \$53 million. The DOJ also entered
13 into a Deferred Prosecution Agreement (“DPA”) with NiSource, wherein NiSource agreed
14 to make its best reasonable efforts to sell Bay State Gas, after which NiSource and Bay
15 State Gas would cease natural gas distribution operations in Massachusetts. The DPA does
16 not require NiSource to sell the Bay State Gas assets to Eversource or to any other particular
17 buyer. However, for the reasons I have stated above, NiSource views Eversource as the
18 right partner for this transaction.

1 **Q. Did NiSource consider any alternatives to this transaction?**

2 A. The NiSource Board of Directors concluded that the proposed sale of the Massachusetts
3 business would serve the interests of customers, shareholders and employees, as well as
4 the interests of the Commonwealth of Massachusetts and the New England region. The
5 sale to Eversource presents a unique opportunity to secure benefits for all constituencies.
6 Other options, such as Bay State Gas continuing to operate the system in the post-Greater
7 Lawrence Incident environment, do not represent an attractive alternative to the proposed
8 transaction and would mean foregoing the anticipated benefits achievable through the
9 proposed transaction. Outside of the sale of the Bay State Assets to Eversource, there is
10 no other alternative that I could envision that would provide these unique benefits.
11 Moreover, there is no assurance that NiSource would be able to sell the Bay State Assets
12 to any other party that is qualified to carry out gas distribution in Massachusetts on
13 acceptable terms.

14 **IV. ENDORSEMENT OF THE NET BENEFITS ANALYSIS**

15 **Q. Please describe the overall benefits of the sale for Bay State Gas customers.**

16 A. The Department's longstanding policy has been to encourage cost-effective utility mergers
17 and acquisitions, as one of several means by which utilities may be able to reduce their
18 costs of service, improve service reliability and enhance their financial strength. In recent
19 years, Bay State Gas has worked diligently to contain operating and maintenance expenses
20 and to devote sufficient capital resources to the replacement of leak-prone infrastructure
21 and other necessary distribution projects. Since the Greater Lawrence Incident occurred,

1 Bay State Gas has substantially completed the recovery and restoration in the Merrimack
2 Valley, and continues to conduct maintenance and operations work with Department
3 approval, in the towns of Andover, Lawrence and North Andover, as well as in Methuen
4 and across the state. Bay State Gas has completed verifications on all of the approximately
5 5,000 former service lines that were abandoned as part of last fall's recovery effort,
6 concluding verification work that began in September 2019. In addition, Bay State Gas is
7 coordinating daily with the Department to prioritize projects and secure approval to
8 conduct other necessary work across the state on the gas distribution system. Bay State
9 Gas is operating under a non-emergency work moratorium issued by the Department on
10 October 3, 2019.

11 However, as noted earlier, NiSource recognizes that the Greater Lawrence Incident has led
12 many to lose trust in Bay State Gas and the Columbia Gas brand. Therefore, going forward,
13 NiSource has determined that the best course for customers was to transfer the
14 Massachusetts business to Eversource. Eversource is a strong local gas distribution
15 company, and NiSource believes Eversource will provide best in class utility service to
16 Bay State Gas customers upon closing of the asset sale. Eversource has demonstrated a
17 commitment to operational excellence and customer service, and consistently invests in its
18 infrastructure to improve the safety and reliability of its systems, which should provide
19 assurance to Bay State Gas customers going forward.

1 **Q. Has Eversource prepared an analysis of the net benefits that will accrue to customers**
2 **in the event the Department approves the proposed transaction?**

3 A. Yes. My understanding is that the Department applies a “net benefits” test for determining
4 whether a transaction proposed for approval under Section 96 will be “consistent with the
5 public interest,” meaning that the petitioner must demonstrate that the benefits outweigh
6 the costs of the proposed transaction. In making this determination, the Department may
7 review a number of factors, including:

- 8 1. Effect on rates.
- 9 2. Effect on the quality of service.
- 10 3. Resulting net savings.
- 11 4. Effect on competition.
- 12 5. Financial integrity of the post-merger entity.
- 13 6. Fairness of the distribution of resulting benefits between shareholders and
14 ratepayers.
- 15 7. Societal costs.
- 16 8. Effect on economic development.
- 17 9. Alternatives to the merger or acquisition.
- 18 10. Long-term strategies that will assure a reliable, cost-effective energy delivery
19 system.
- 20 11. Any anticipated interruptions in service.
- 21 12. Other factors that may negatively impact customer service.

22 Eversource has prepared an in-depth, quantitative and qualitative analysis of how the
23 proposed transaction meets the Department’s net-benefit standard. This analysis is

1 presented in the testimony of Eversource witness Mr. Douglas P. Horton, in recognition of
2 the fact that Eversource will be responsible for the post-transaction operations. Based on
3 my knowledge of the Bay State Gas operations, I agree that the proposed transaction will
4 satisfy the net-benefits test, as detailed in the testimony of Mr. Horton.

5 **Q. From your perspective, will the proposed transaction have any adverse impact on the**
6 **rates paid by Bay State Gas customers?**

7 A. No. Eversource is not seeking any changes to the rates charged to Bay State Gas customers
8 upon closing. It is NiSource's understanding that no changes to the tariff rates or services
9 provided to the Bay State Gas customers are planned or contemplated to take effect within
10 one year of the closing date. Moreover, the Bay State Assets will be operated as a regulated
11 gas distribution business subject to the Department's ongoing oversight and the
12 Department will retain the ability to examine future changes in rates in accordance with its
13 longstanding ratemaking precedent. Therefore, no negative rate impact can result to
14 customers as a result of effectuating the proposed transaction without approval from the
15 Department and, over time, customers will have the potential to benefit from continued
16 investment, operational efficiencies and best practices available as Eversource integrates
17 the Bay State Assets into its gas distribution business.

18 **Q. Is NiSource requesting recovery of its capital investment made in response to the**
19 **Greater Lawrence Incident in this case?**

20 A. No. NiSource is not requesting recovery of its capital investment made in response to the
21 Greater Lawrence Incident in this case, nor is NiSource receiving any direct value

1 associated with that investment. NiSource is selling the Bay State Gas assets to Eversource
2 at a substantial loss and, with the Department's approval of this transaction, NiSource will
3 be precluded from ever requesting recovery of these costs from Bay State Gas customers.

4 **Q. Will the proposed transaction have any adverse effect on service quality for Bay State**
5 **Gas customers, such as service interruptions or other negative consequences as a**
6 **result of the sale?**

7 A. No. An important aspect of the proposed transaction is that Eversource management will
8 oversee service to Bay State Gas customers from and after the closing. Accordingly,
9 NiSource does not anticipate that there will be any adverse impacts on service quality, any
10 greater potential for service interruptions, or any negative service quality consequences
11 resulting from the transaction. In fact, NiSource is confident that service quality will be
12 favorably influenced by Eversource's local management, operating and investment
13 practices. Bay State Gas customers should benefit from this approach.

14 Moreover, the proposed transaction will not change the Department's authority with
15 respect to the quality of service provided to Bay State Gas customers after they become
16 Eversource customers. The closing of the proposed transaction will not disturb or change
17 the Department's ability to measure and monitor the service quality after the proposed
18 transaction. Service quality is measured, monitored and enforced through the annual
19 service-quality review undertaken by the Department and service-quality penalties may be
20 assessed if service were to fall below historical benchmark levels. NiSource does not
21 anticipate any negative service-quality impacts resulting from the proposed transaction. To

1 the contrary, NiSource sees the potential for service quality to improve as a result of the
2 transaction and Eversource's regional focus and customer-service track record.

3 **V. PAYMENT IN LIEU OF PENALTIES**

4 **Q. Is NiSource making a proposal in this proceeding to terminate the ongoing**
5 **enforcement and compliance actions currently pending before the Department in**
6 **relation to the Greater Lawrence Incident and other enforcement actions on the Bay**
7 **State Gas system?**

8 A. Yes. Under the Agreement, there must be an "MDPU Required Resolution," which is
9 defined as the final resolution or termination of all pending actions, claims and
10 investigations, lawsuits or other legal or administrative proceedings against NiSource, Bay
11 State Gas and their affiliates under the jurisdiction of the Department and all future actions,
12 claims and investigations, lawsuits or other legal or administrative proceedings against
13 NiSource, Bay State Gas and their affiliates relating to the Greater Lawrence Incident under
14 the jurisdiction of the Department, each as determined by NiSource in its reasonable
15 discretion. This includes the Department's investigations in D.P.U. 19-140 and D.P.U. 19-
16 141, as well as other pending regulatory matters.²

17 To achieve the MDPU Required Resolution, Eversource and NiSource propose that
18 NiSource make a payment in lieu of penalties for the Department's investigations and
19 proceedings in the amount of \$22.2 million. This is the maximum allowable penalty under

² Currently, there are several open compliance matters that are unrelated to the Greater Lawrence Incident. As part of the Agreement, all outstanding pipeline safety compliance investigations, inquiries or ongoing matters would be terminated in relation to NiSource, Bay State Gas and their affiliates.

1 Massachusetts statutory law for an emergency event response and series of pipeline safety
2 investigations. Given that this payment is in lieu of a penalty, Bay State Gas customers
3 would not be responsible for this payment, nor would this payment be recoverable from
4 customers. Under Massachusetts law, all or a portion of this payment could go to the direct
5 benefit of Bay State Gas customers as determined by the Department, such as for providing
6 support for COVID-19-related arrearage forgiveness, matching payments, or other
7 assistance and/or infrastructure improvement.

8 **VI. REGULATORY APPROVALS AND CLOSING TIMELINE**

9 **Q. Is the transaction conditioned upon certain regulatory approvals and other**
10 **conditions?**

11 A. Yes. As stated in the APA, the proposed transaction is subject to Massachusetts statutory
12 approvals, resolution of certain proceedings before governmental bodies, and other
13 prerequisites to closing. Specifically, the proposed transaction is subject to the
14 Department's approval under G.L. c. 164, § 96, with confirmation under G.L. c. 164, § 21,
15 that Eversource will possess all of the franchise rights and obligations of Bay State Gas
16 upon closing and that further action pursuant to G.L. c. 164, § 21 is not required to complete
17 the proposed transaction.

18 In addition to the requirements of Massachusetts law, the terms of the APA establish certain
19 prerequisites for closing that must be fulfilled for the proposed transaction to be completed.
20 Specifically, for the proposed transaction to be completed following the issuance of the
21 Department's final decision in this proceeding, the following Department actions and

1 approvals must have occurred: (1) "*MDPU Approval*," which means the approval of the
2 transactions contemplated by the APA, as required by the Department and any applicable
3 rules and regulations promulgated by the Department (Section 1.1); (2) "*MDPU Required*
4 *Regulatory Approval*," which means the MDPU Approval, including the Department's
5 recognition that the applicable rate base for the business of storing, distributing or
6 transporting natural gas to residential, commercial and industrial customers in
7 Massachusetts, as conducted by Bay State Gas, for ratemaking purposes following the
8 closing shall be the rate base as of closing and that Eversource shall have the burden of
9 showing prudence for any adjustments made to rate base after the closing, but not before
10 the closing (Section 7.3(a)); and (3) "*MDPU Required Resolution*," which means the final
11 resolution or termination of all pending actions, claims and investigations, lawsuits or other
12 legal or administrative proceedings against Seller and its affiliates under the jurisdiction of
13 the Department and all future actions, claims and investigations, lawsuits or other legal or
14 administrative proceedings against Seller and its affiliates relating to the Greater Lawrence
15 Incident under the jurisdiction of the Department, each as determined by NiSource in its
16 reasonable discretion (Section 1.1). In addition, there shall not have been any "*Material*
17 *Adverse Effect*," which among other things, means that there shall not have been any
18 adverse effect resulting from any action by a governmental body taken in connection with
19 the MDPU Approval (Section 1.1).

1 **Q. Would you please provide more detail on the Department regulatory proceedings that**
2 **NiSource is seeking to have terminated in order to allow the transaction to go**
3 **forward?**

4 A. Yes. Following the Greater Lawrence Incident and subsequent events, the Department
5 opened two dockets relating to the Greater Lawrence Incident, including a pipeline safety
6 investigation reviewing the factors causing the over-pressurization of the low-pressure
7 natural gas distribution system serving parts of Lawrence, Andover, and North Andover,
8 Massachusetts. Specifically, on October 25, 2019, the Department opened two
9 investigations into the Merrimack Valley Incident: (1) D.P.U. 19-140, which is focused
10 on responsibility for and response to the incident, as well as Bay State Gas restoration
11 efforts following the incident; and (2) a second investigation focused on Bay State Gas
12 efforts to prepare for and restore service following the Merrimack Valley Incident. These
13 two dockets are pending before the Department in: (1) Investigation by the Department of
14 Public Utilities on its own Motion into Bay State Gas Company d/b/a Columbia Gas of
15 Massachusetts' responsibility for and response to the September 13, 2018 Merrimack
16 Valley Incident, D.P.U. 19-140 Order Opening Investigation at 1 (2019); and (2)
17 Investigation by the Department of Public Utilities on its own Motion into the Preparation
18 and Response of Bay State Gas Company d/b/a Columbia Gas of Massachusetts with
19 respect to the September 13, 2018 Merrimack Valley Gas Event, D.P.U. 19-141, at 2

1 (2019).³

2 In addition to the requirements of Massachusetts law, the terms of the APA encompass
3 other prerequisites for closing that must be fulfilled for the transaction to be completed.
4 One of those prerequisites is the termination of the pipeline safety investigation pending in
5 D.P.U. 19-140 and D.P.U. 19-141, as well as other pending enforcement, assessment and
6 compliance actions currently under investigation and pending before the Department that
7 the Department would intend to have resolved in the context of settling D.P.U. 19-140.

8 **Q. Is the proposed transaction subject to NiSource shareholder approvals?**

9 A. No, it is not. NiSource is organized under Delaware law. Delaware law does not require
10 a shareholder vote in relation to the transaction; therefore, no NiSource shareholder vote is
11 required by G.L. c. 164, § 96, in relation to the transaction. Bay State Gas is a
12 Massachusetts corporation and its shares are wholly owned by NiSource Gas Distribution
13 Group, Inc., a wholly owned NiSource subsidiary (“NGD Group”). The NiSource Board
14 of Directors and the NGD Group Board of Directors have approved the transaction; thereby
15 providing the requisite shareholder consent under G.L. c. 164, § 96. The NGD Group
16 approval and NiSource Board of Directors approval are provided as Exhibit JP-SA-3.

³ As set out in the APA, the “Greater Lawrence Incident” encompasses the events set out in D.P.U. 19-141, the Bay State Gas restoration and recovery efforts undertaken in response to the Greater Lawrence Incident, and the gas leak that occurred on September 27, 2019 on a main that Bay State Gas installed during its restoration efforts, as well as the efforts by Bay State Gas to restore service following the September 27, 2019 leak in Lawrence, MA.

1 **Q. What is the anticipated timeline for closing the transaction?**

2 A. The Joint Petitioners seek to obtain all of the necessary approvals and satisfy all closing
3 conditions by the third quarter, in order to close by September 30, 2020. If the sale is not
4 completed on or before October 26, 2020, the APA provides for two automatic 45-day
5 extensions under certain circumstances related to obtaining required regulatory approvals
6 and resolution with the Department. After this period, either party may choose to terminate
7 the agreement and not proceed with the transaction.

8 **Q. Does this conclude your testimony?**

9 A. Yes.

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EX-2.1

EX-2.1 2 d896652dex21.htm EX-2.1

EXHIBIT 2.1

ASSET PURCHASE AGREEMENT

BY AND AMONG

NISOURCE INC.,

BAY STATE GAS COMPANY

AND

EVERSOURCE ENERGY

Dated as of February 26, 2020

3/5/2020

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EX-2.1

ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT, dated as of February 26, 2020 (this "**Agreement**"), by and among NiSource Inc., a Delaware corporation ("**Seller Parent**"), Bay State Gas Company, a Massachusetts corporation and indirect wholly-owned subsidiary of Seller Parent (the "**Company**") and, together with Seller Parent, "**Seller**"), and Eversource Energy, a Massachusetts voluntary association ("**Buyer**").

PRELIMINARY STATEMENT:

WHEREAS, the Company is engaged in the Business (as defined below); and

WHEREAS, the Company desires to sell to Buyer, and Buyer desires to purchase from the Company, the Purchased Assets (as defined below), and Buyer desires to assume from the Company the Assumed Liabilities (as defined below), each on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, it is hereby agreed by and among Seller Parent, the Company and Buyer as follows:

ARTICLE I
DEFINITIONS

Section 1.1. **Definitions.** In this Agreement, the following terms have the meanings specified or referred to in this **Section 1.1**.

"**Accounting Firm**" has the meaning specified in **Section 4.5(b)**.

"**Accounting Firm Notice**" has the meaning specified in **Section 4.5(b)**.

"**Action**" has the meaning specified in **Section 5.13(b)**.

"**Affiliate**" means, with respect to any Person, any other Person which directly or indirectly Controls, is Controlled by or is under Common Control with such Person (but only for so long as such Control exists).

"**Agreed Accounting Principles**" means GAAP applied on a basis consistent with the accounting principles, methods, practices, reserves and accruals utilized in preparing the Company's balance sheet as of June 30, 2018.

"**Agreement**" has the meaning specified in the first paragraph of this Agreement.

"**Allocation Schedule**" has the meaning specified in **Section 8.2(d)**.

"**Alternative Proposal**" has the meaning specified in **Section 7.6**.

"**Antitrust Laws**" has the meaning specified in **Section 7.3(a)**.

"**Assumed Liabilities**" has the meaning specified in **Section 2.1(c)**.

"**Base Purchase Price**" has the meaning specified in **Section 3.1**.

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“**Benefit Plan**” means each “employee benefit plan” as defined in Section 3(3) of ERISA, whether or not subject to ERISA, and each other employee benefit plan, scheme, program, policy, contract and arrangement (including any bonus, commission, incentive compensation, deferred compensation, stock bonus, stock purchase, stock appreciation right, phantom equity restricted stock, stock option or other equity-based arrangement, and any retirement, pension, profit sharing, medical, dental, life, disability, welfare, fringe benefit, post-retirement, employment, termination, retention, bonus, change in control or severance plan, program, policy, arrangement, agreement or contract) whether or not reduced to writing, that is sponsored, maintained, contributed to, or required to be contributed to by Seller or any of its Affiliates covering or for the benefit of one or more Business Employees, Former Business Employees, or their beneficiaries or dependents.

“**Bill of Sale (Company)**” means the bill of sale substantially in the form of Exhibit D-1.

“**Bill of Sale (Company Affiliate)**” means the bill of sale substantially in the form of Exhibit D-3.

“**Bill of Sale (Seller Parent)**” means the bill of sale substantially in the form of Exhibit D-2.

“**Burdensome Condition**” has the meaning specified in Section 7.3(h).

“**Business**” means the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by the Company with certain support services from the Company’s Affiliates.

“**Business Day**” means any day that is not a Saturday, Sunday or other day that banks generally in Boston, Massachusetts or New York, New York are closed.

“**Business Employee**” means (a) any employee of the Company other than the employees listed on Exhibit A-1, and (b) the individuals listed on Exhibit A-2.

“**Business Indebtedness**” means (a) all indebtedness for borrowed money of the Company, including any indebtedness evidenced by notes, bonds, debentures or similar instruments or debt securities, (b) obligations of the Company for the deferred purchase price of property or services (including all “earn-out” obligations or other deferred purchase price obligations), conditional sale obligations or title retention policies (excluding trade accounts payable), (c) all obligations owed by the Company pursuant to any letter of credit, banker’s acceptances, letter of guarantee, performance or surety bond or similar instrument or interest rate, currency swap or other hedging agreement or transaction, (d) any of the foregoing obligations which is secured by an Encumbrance on the Purchased Assets, (e) all obligations of the Seller or its Affiliates in respect of accrued, but unpaid, severance with respect to Business Employees or Former Business Employees, (f) any unfunded nonqualified deferred retirement plan or deferred compensation liability of Seller or its Affiliates with respect to Business Employees or Former Business Employees, (g) any withdrawal liability of Seller or its Affiliates associated with any Seller Pension Plan, (h) the employer portion of any Taxes arising from the liabilities described in clauses (e) through (g) hereof, (i) all intercompany loans to the Company other than the Intercompany Loans, (j) the Company Notes, (k) all accrued and unpaid interest on, and applicable prepayment premiums, breakage costs, penalties or similar contractual charges arising as a result of the discharge at Closing of, any such foregoing obligations and all fees and expenses related thereto, and (l) any of the foregoing for which the Company is liable as an obligor, guarantor, surety or otherwise.

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“**Business Records**” means all books, records, ledgers and files or other similar information (whether in paper, electronic or other form) of (a) the Company and (b) its Affiliates to the extent, in the case of clause (b), related to the Business, including (i) customer lists (including pricing information, credit information and historical sales information for each such customer), vendor lists, customer relationship databases, lists of prospects, and lists of other purchasers of goods and services from the Business, (ii) all market research, marketing and promotional plans and materials and sales and marketing information, (iii) advertising and publicity materials and brochures, (iv) records of operation, standard forms of documents, and manuals of operations or business procedures, and (v) financial statements and other financial records.

“**Buyer**” has the meaning specified in the first paragraph of this Agreement.

“**Buyer Ancillary Agreements**” means all agreements, instruments and documents being or to be executed and delivered by Buyer under this Agreement or in connection herewith.

“**Buyer Disclosure Letter**” means the disclosure letter dated as of the date of this Agreement delivered by Buyer to Seller.

“**Buyer Indemnitee**” has the meaning specified in [Section 11.1\(a\)](#).

“**Buyer OPEB Plan**” means an “employee welfare benefit plan” as defined in Section 3(1) of ERISA established or maintained by the Buyer or any of its Subsidiaries prior to the Closing for the purpose of providing post-employment health and welfare benefits.

“**Buyer Party**” means (a) Buyer, (b) Buyer’s controlled Affiliates and (c) the officers, directors, employees and agents of Buyer or any of its controlled Affiliates.

“**Cap**” has the meaning specified in [Section 11.1\(a\)\(z\)](#).

“**Change In Law**” means the adoption, promulgation, modification, reinterpretation or change in the enforcement of any law, rule, regulation, ordinance or order or any other Requirement of Law of any Governmental Body that occurs subsequent to the date of this Agreement or the written or oral announcement by any Governmental Body of any proposed or contemplated change in any law, rule, regulation, ordinance or any other Requirement of Law of such Governmental Body that occurs subsequent to the date of this Agreement.

“**Claim**” has the meaning specified in [Section 11.5\(a\)](#).

“**Claim Notice**” has the meaning specified in [Section 11.3](#).

“**Closing**” means the closing of the sale and transfer of the Purchased Assets from the Seller and its Affiliates to Buyer, together with the assumption of the Assumed Liabilities by Buyer.

“**Closing Date**” has the meaning specified in [Section 4.1](#).

“**Closing Date Estimate**” has the meaning specified in [Section 4.2\(a\)](#).

“**Closing Statement**” has the meaning specified in [Section 4.5\(a\)](#).

“**Code**” means the Internal Revenue Code of 1986, as amended.

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“**Company**” has the meaning specified in the first paragraph of this Agreement.

“**Company Ancillary Agreements**” means all agreements, instruments and documents being or to be executed and delivered by the Company under this Agreement or in connection herewith.

“**Company Indenture**” means the Indenture, dated as of April 1, 1991, between the Company and U.S. Bank National Association, as successor trustee, as amended and supplemented by the First Supplemental Indenture, dated as of January 6, 1999, and the Second Supplemental Indenture, dated as of October 3, 2011, and as it may be further amended and supplemented from time to time.

“**Company IP**” has the meaning specified in [Section 5.10\(a\)](#).

“**Company Notes Consent**” has the meaning specified in [Section 8.8](#).

“**Company Notes**” means the Company’s 6.26% Medium Term Notes due February 15, 2028 and the Company’s 6.43% Medium Term Notes due December 15, 2025.

“**Company Pension Plans**” means the Pension Plans sponsored by the Company: the Bay State Gas Company Pension Plan and the Bay State Union Pension Plan.

“**Competition Law**” means any Requirements of Law that provide for merger control or are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, lessening of competition or restraint of trade.

“**Confidentiality Agreement**” means that certain letter agreement dated November 20, 2019 between Buyer and Seller Parent.

“**Consents**” has the meaning specified in [Section 2.2\(a\)](#).

“**Consolidated Tax Group**” means any “affiliated group” (as defined in Section 1504(a) of the Code) that includes Seller, and any similar group of corporations that includes Seller and files state or local income Tax Returns on a combined, consolidated or unitary basis.

“**Contracts**” means all contracts, subcontracts, agreements, leases, subleases, licenses, commitments, sales and purchase orders, and other instruments, arrangements, understandings or obligations of any kind to which a Person is a party, by which a Person is bound or by which any of the assets or properties of a Person is bound.

“**Control**” means beneficial ownership of more than 50% of the equity or voting securities of any other Person. The terms “Controlled by,” “under Common Control with” and “Controlling” have correlative meanings.

“**Copyrights**” means United States registered copyrights and pending applications to register the same.

“**Court Order**” means any judgment, order, award or decree of any foreign, federal, state, local or other court or tribunal and any award in any arbitration proceeding.

“**Current Litigation**” means litigation pending against the Company or its Affiliates with respect to the Business, or its or their respective directors or employees with respect to the Business, as of the Closing Date, including the matters listed in [Section 1.1\(a\)\(i\)](#) of the Seller Disclosure Letter.

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“**Data Room**” has the meaning specified in [Section 6.8](#).

“**Debt Breakage Cost Amount**” means fifty percent (50%) of the difference between (i) all amounts incurred or paid, or to be incurred or paid, by Seller or any of its Affiliates prior to or at the Closing in connection with fulfillment of Seller’s obligations set forth in [Section 8.7](#) (including the aggregate amount paid to all holders of the Company Notes to (w) Repay any Company Notes and (x) in connection with Seller’s efforts to obtain the Company Notes Consent, and in the case of each of clause (w) and clause (x), any and all other fees, costs and expenses incurred or paid, or to be incurred or paid, in connection with the foregoing) and (ii) the sum of (y) the outstanding aggregate principal amount of the Company Notes Repaid at or prior to the Closing and (z) the aggregate amount of accrued and unpaid interest on such Repaid Company Notes at the time such Company Notes were Repaid.

“**Declaration of Trust**” means the Declaration of Trust of Buyer, dated as of January 15, 1927, as amended from time to time.

“**Deductible**” has the meaning specified in [Section 11.1\(a\)\(y\)](#).

“**Deeds**” means, collectively, the special quitclaim deeds for the transfer of all Owned Real Property, in recordable form, on a county-by-county basis, in the form of [Exhibit G](#).

“**Delayed Asset**” has the meaning specified in [Section 2.2\(a\)](#).

“**Delayed Liability**” has the meaning specified in [Section 2.2\(a\)](#).

“**Delivery Date**” has the meaning specified in [Section 4.5\(a\)](#).

“**Dispute Notice**” has the meaning specified in [Section 4.5\(b\)](#).

“**Downward Adjustment Amount**” has the meaning specified in [Section 4.5\(c\)\(ii\)](#).

“**Easements**” has the meaning specified in [Section 5.8\(c\)](#).

“**Encumbrance**” means any lien, charge, security interest, encumbrance, mortgage, pledge, easement, encroachment, right of way, right of first refusal, conditional sale or other title retention agreement, title exception, defect in title or other restriction of a similar kind.

“**Environmental Law**” means all Requirements of Law relating to pollution or protection of the environment, including the use, handling, storage, disposal, discharge or Release of Hazardous Materials.

“**Environmental Permits**” means all Permits required pursuant to any Environmental Law.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**ERISA Affiliate**” means, with respect to any Person, any other Person that, at the relevant time, together with such first Person, would be treated as a single employer under Code Section 414(b), (c), (m) or (o).

“**Estimated Purchase Price**” has the meaning specified in [Section 4.2\(a\)](#).

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Excluded Assets**” has the meaning set forth in [Section 2.1\(b\)](#).

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“**Excluded Liabilities**” has the meaning set forth in [Section 2.1\(d\)](#).

“**Expenses**” means any and all out-of-pocket expenses incurred in connection with defending or asserting any claim, action, suit or proceeding hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees and reasonable fees and disbursements of legal counsel, expert witnesses, accountants and other professionals).

“**Final Purchase Price**” has the meaning specified in [Section 4.5\(c\)](#).

“**Financial Statements**” has the meaning specified in [Section 5.4\(a\)](#).

“**Former Business Employee**” means each former employee of the Company (other than a Transferring Employee) who (i) terminated employment prior to the Closing Date or in connection with the transaction pursuant to this Agreement and (ii) whose last employment with any controlled Affiliate of Seller Parent prior to such employee’s termination of employment was with the Company.

“**Franchises**” has the meaning specified in [Section 5.14\(a\)\(v\)](#).

“**Fraud**” means, (a) with respect to Seller, a representation and warranty expressly made by Seller in [Article V](#) that was deliberately made while being to the Knowledge of Seller untrue at the time it was made and (b) with respect to Buyer, a representation and warranty expressly made by Buyer in [Article VI](#) that was deliberately made while being to the Knowledge of Buyer untrue at the time it was made.

“**Fundamental Representations**” means the representations and warranties of Seller contained in [Section 5.1\(a\)](#) (Organization), [Section 5.1\(e\)](#) (Power and Authority), [Section 5.3\(a\)](#) (Authority of Seller) and [Section 5.22](#) (No Brokers).

“**GAAP**” means United States generally accepted accounting principles, consistently applied.

“**GLI Insurance Proceeds**” means any insurance proceeds or other recoveries under insurance policies of Seller or any of its Affiliates as a result of or in connection with the Greater Lawrence Incident.

“**GLI Proceeding**” means any Action relating to the Greater Lawrence Incident.

“**Governmental Body**” means any U.S. or foreign, federal, state, local or other government, political subdivision, governmental, regulatory or administrative authority, Tax authority, instrumentality, agency body or commission, self-regulatory organization, court, any tribunal or judicial or arbitral body, including any department of insurance.

“**Governmental Permits**” has the meaning specified in [Section 5.7](#).

“**Greater Lawrence Incident**” means the events described in the MDPU Order on Scope dated December 23, 2019 (D.P.U. 19-141), including the fires and explosions that occurred on September 13, 2018 in Lawrence, Andover and North Andover, Massachusetts related to the delivery of natural gas by the Company and the subsequent shut-down of the Company’s affected gas delivery system by September 14, 2018, the Company’s restoration and recovery efforts undertaken in response thereto from and including September 14, 2018, and the gas leak that occurred on September 27, 2019 on a main that the Company installed during such efforts and the Company’s restoration of outages resulting from such leak.

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“**Hazardous Materials**” means (a) petroleum or petroleum products, radioactive materials, friable asbestos and polychlorinated biphenyls and (b) any material, substance or waste that is defined as “hazardous” or “toxic” under Environmental Law.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“**Indemnified Party**” has the meaning specified in [Section 11.3](#).

“**Indemnitor**” has the meaning specified in [Section 11.3](#).

“**Instrument of Assumption (Company)**” means the instrument of assumption substantially in the form of [Exhibit E-1](#).

“**Instrument of Assumption (Company Affiliate)**” means the instrument of assumption substantially in the form of [Exhibit E-2](#).

“**Intangible Franchise Rights**” means the assets of the type accounted for in the Financial Statements as “intangible franchise rights”.

“**Intellectual Property**” means Copyrights, Patent Rights, Trademarks and Trade Secrets.

“**Intercompany Loans**” means (a) the Promissory Note, dated as of December 21, 2004, by the Company in favor of Seller Parent in the amount of \$35,000,000, (b) the Promissory Note, dated as of December 16, 2011, by the Company in favor of Seller Parent in the amount of \$11,000,000, (c) the Promissory Note, dated as of November 28, 2012, by the Company in favor of Seller Parent in the amount of \$8,000,000, (d) the Promissory Note, dated as of March 18, 2013, by the Company in favor of Seller Parent in the amount of \$50,000,000, (e) the Promissory Note, dated as of September 24, 2013, by the Company in favor of Seller Parent in the amount of \$22,000,000, (f) the Promissory Note, dated as of November 20, 2014, by the Company in favor of Seller Parent in the amount of \$28,400,000, (g) the Promissory Note, dated as of June 26, 2015, by the Company in favor of Seller Parent in the amount of \$15,000,000, (h) the Promissory Note, dated as of December 30, 2015, by the Company in favor of Seller Parent in the amount of \$15,000,000, (i) the Promissory Note, dated as of June 30, 2016, by the Company in favor of Seller Parent in the amount of \$58,000,000, (j) the Promissory Note, dated as of June 30, 2017, by the Company in favor of Seller Parent in the amount of \$15,000,000, (k) the Promissory Note, dated as of September 29, 2017, by the Company in favor of Seller Parent in the amount of \$7,000,000 and (l) the Promissory Note, dated as of December 29, 2017, by the Company in favor of Seller Parent in the amount of \$45,000,000.

“**IRS**” means the Internal Revenue Service.

“**Key Employees**” has the meaning specified in [Section 5.17\(a\)](#).

“**Knowledge of Buyer**” means, as to a particular matter, the current actual knowledge of the people listed on [Section 1.1](#) of the Buyer Disclosure Letter following reasonable inquiries of the direct reports of such people that such people reasonably expect to have actual knowledge of such fact or matter.

“**Knowledge of Seller**” means, as to a particular matter, the current actual knowledge of the people listed on [Section 1.1\(a\)\(ii\)](#) of the Seller Disclosure Letter following reasonable inquiries of the direct reports of such people that such people reasonably expect to have actual knowledge of such fact or matter.

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“**Labor Union**” has the meaning specified in [Section 5.14\(a\)\(ii\)](#).

“**Leased Real Property**” has the meaning specified in [Section 5.8\(b\)](#).

“**Licensed Marks**” has the meaning specified in [Section 8.1\(a\)](#).

“**Losses**” means any and all out-of-pocket losses, liabilities, costs, settlement payments, awards, judgments, fines, penalties, damages, deficiencies, interest, Taxes, Expenses or other charges of any kind.

“**Material Adverse Effect**” means any effect, occurrence, change or event (i) that would prevent or materially and adversely impair the ability of Seller to consummate the transactions contemplated by this Agreement or (ii) that has had, or would reasonably be expected to have, individually or together with one or more other effects, occurrences, changes or events, a material adverse effect on the results of operations, financial condition, assets or liabilities of the Business taken as a whole, other than, for the purpose of clause (ii), any such effect resulting or arising from (except, in the case of clauses (a), (c), (f), (j) or (k) to the extent such matter has a disproportionate effect on the Business relative to other businesses operating in the industry in which the Business operates): (a) general economic or political conditions or any conditions generally affecting any segment of the industries in which the Business operates, (b) any failure by the Business to meet financial projections, forecasts or revenue or earning predictions for any period (it being understood that the underlying causes of the failure to meet such projections or forecasts may be taken into account in determining whether a Material Adverse Effect has occurred), (c) any Change In Law or in the accounting requirements or principles imposed on the Business or any interpretation of any of the foregoing, (d) the execution of this Agreement, the public announcement hereof, the pendency of this Agreement and the transactions contemplated hereby or the consummation of the transactions contemplated hereby (including any adverse effect resulting from any action by a Governmental Body taken in connection with the MDPU Approval), including adverse changes in the Business’ relationship with its employees, customers, partners or suppliers, (e) the failure to obtain any consent from any Third Party in connection with the transactions contemplated hereby, (f) any change in currency exchange rates, interest rates or the financial or securities markets generally, (g) any action taken by (or at the written request of) Buyer or any of its Affiliates, (h) any asset or property of Seller or its Affiliates that is not being transferred pursuant to this Agreement, (i) any external communication by Buyer or any of its Affiliates regarding the plans or intentions of Buyer with respect to the Purchased Assets, Assumed Liabilities or the conduct of the Business following the Closing, (j) changes caused by acts of terrorism or war (whether or not declared) occurring after the date of this Agreement, (k) any “act of God,” including natural disasters and earthquakes, and (l) any event relating to the Greater Lawrence Incident that occurred prior to the date of this Agreement.

“**Material Contract**” has the meaning specified in [Section 5.14\(a\)](#).

“**MDPU**” means the Massachusetts Department of Public Utilities.

“**MDPU Approval**” means the approval of the transactions contemplated hereby as required by the MDPU and any applicable rules and regulations promulgated by the MDPU.

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“**MDPU Required Regulatory Approval**” has the meaning specified in [Section 7.3\(a\)](#).

“**MDPU Required Resolution**” means the final resolution or termination of all pending actions, claims and Proceedings against Seller and its Affiliates under the jurisdiction of the MDPU and all future actions, claims and Proceedings against Seller and its Affiliates relating to the Greater Lawrence Incident under the jurisdiction of the MDPU, each as determined by Seller Parent in its reasonable discretion.

“**Merged Company Pension Plan**” has the meaning specified in [Section 8.3\(f\)](#).

“**Net Working Capital**” means (a) the categories of current assets of the Company described in the line items designated as “included” on [Exhibit B](#) to the extent included in the Purchased Assets, minus (b) the categories of current liabilities of the Company described in the line items designated as “included” on [Exhibit B](#) to the extent included in the Assumed Liabilities, each determined as of 12:01 am (Eastern time) on the Closing Date in accordance with the Agreed Accounting Principles. Net Working Capital shall be based exclusively on the facts and circumstances as they exist as of immediately preceding the Closing and shall exclude the effects of Buyer consummating the Closing (including Buyer’s financing of the Purchase Price); provided, however, that Net Working Capital shall exclude any costs or liabilities related to the redemption of Business Indebtedness but shall be increased by the Debt Breakage Cost Amount.

“**Non-Active Employees**” has the meaning specified in [Section 8.3\(a\)](#).

“**Ongoing Shared Contracts**” has the meaning specified in [Section 2.2\(e\)\(i\)](#).

“**Order**” means any order, decision, decree or directive of a Governmental Body.

“**Other Seller Pension Plans**” means the Seller Pension Plans other than the Company Pension Plans.

“**Owned Real Property**” has the meaning specified in [Section 5.8\(a\)](#).

“**Patent Rights**” means United States patents, patent applications, continuations, continuations-in-part, divisions and reissues.

“**Pension Plan**” means any “employee pension benefit plan” as defined in Section 3(2) of ERISA that is subject to Title IV of ERISA.

“**Permits**” means permits, licenses, approvals, certificates and other authorizations of any Governmental Body.

“**Permitted Encumbrances**” means (a) statutory liens for current Taxes and assessments that are (i) not yet due and payable or (ii) being contested in accordance with applicable Requirements of Law in good faith and for which appropriate reserves have been established in accordance with GAAP, to the extent required; (b) liens of landlords and liens of carriers, warehousemen, mechanics and materialmen and other like liens arising in the ordinary course of business for sums not yet due and payable and for which appropriate reserves have been established in accordance with GAAP, to the extent required, and which in the aggregate are not substantial in amount and do not materially interfere with the present use of the assets to which they apply; (c) Encumbrances evidenced by any security agreement, financing statement, purchase money agreement, conditional sales contract, capital lease or operating lease, or by any

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license, coexistence agreement, undertaking, declaration, limitation of use or consent to use, in each case that is described in [Section 5.14](#) of the Seller Disclosure Letter; (d) any matters that are disclosed on any survey or in any title insurance policies or any title insurance commitments that have been made available to Buyer or obtained by or on behalf of Buyer; (e) other Encumbrances or imperfections in title, easements, leases, licenses, restrictions, activity and use limitations that, in each case or in the aggregate, do not materially impair the existing use of the real property affected; (f) the terms and conditions of any Governmental Permit and any order of a Governmental Body applicable generally to utility companies operating in Massachusetts; (g) applicable zoning ordinances or land use and environmental Requirements of Law relating to the Real Property, provided that such restrictions do not materially interfere with the operation of that portion of the Business currently conducted on such Real Property; (h) all rights of any Person under any condemnation, eminent domain or other similar Proceedings which are pending or threatened in writing as of the date hereof, in each case which do not materially impair the existing use of the real property affected; (i) liens not created by the Company that affect the underlying fee interest of any leased or licensed real property or real property that is subject to an easement; (j) the terms of any Real Property Lease made available to the Buyer or Easement; (k) non-exclusive licenses to Intellectual Property or Software; (l) source code escrow agreements for Software; (m) Encumbrances pursuant to the Securities Act or any regulations thereunder or any securities Requirements of Law of any U.S. state or other jurisdiction and (n) Encumbrances identified in [Section 1.1\(b\)](#) of the Seller Disclosure Letter.

“**Person**” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a Governmental Body, or any department, agency or political subdivision thereof.

“**Post-Closing Usage Period**” has the meaning specified in [Section 8.1\(a\)](#).

“**Privileged Information**” has the meaning specified in [Section 13.17\(c\)](#).

“**Proceeding**” means any investigation, lawsuit or other legal or administrative proceeding before, or initiated or conducted by, any Governmental Body.

“**Purchase Price**” has the meaning specified in [Section 3.1](#).

“**Purchased Assets**” has the meaning specified in [Section 2.1\(a\)](#).

“**Real Property**” has the meaning specified in [Section 5.8\(d\)](#).

“**Real Property Lease**” has the meaning specified in [Section 5.8\(b\)](#).

“**Reference Balance Sheet**” means the unaudited balance sheet of the Company at December 31, 2019.

“**Reference Balance Sheet Date**” means December 31, 2019.

“**Regulatory Assets**” means deferred charges and other rights of the Company to potentially recover amounts from customers through rates and charges in future periods (together with any interest or return thereon, as applicable).

“**Regulatory Entity**” has the meaning specified in [Section 5.17\(a\)](#).

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“**Regulatory Liabilities**” means liabilities to refund or credit amounts to customers through rates and charges in future periods (together with any interest or return thereon, as applicable).

“**Regulatory Permits**” has the meaning specified in [Section 5.17\(a\)](#).

“**Regulatory Proceeding**” has the meaning specified in [Section 5.17\(a\)](#).

“**Release**” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment.

“**Remedial Action**” has the meaning specified in [Section 7.3\(e\)](#).

“**Repay**” or “**Repaid**” has the meaning specified in [Section 8.8](#).

“**Requirements of Law**” means any foreign, federal, state and local laws, statutes, regulations, rules, codes, ordinances or legally binding Orders enacted, adopted, issued or promulgated by any Governmental Body.

“**Retained Names and Marks**” has the meaning specified in [Section 8.1\(a\)](#).

“**Review Period**” has the meaning specified in [Section 4.5\(b\)](#).

“**SEC**” means the United States Securities and Exchange Commission.

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Seller**” has the meaning specified in the first paragraph of this Agreement.

“**Seller Ancillary Agreements**” means the Seller Parent Ancillary Agreements and the Company Ancillary Agreements.

“**Seller Disclosure Letter**” means the Seller Disclosure Letter dated as of the date of this Agreement delivered by Seller to Buyer.

“**Seller Guaranties**” has the meaning specified in [Section 8.5](#).

“**Seller Indemnitee**” has the meaning specified in [Section 11.2\(a\)](#).

“**Seller Parent**” has the meaning specified in the first paragraph of this Agreement.

“**Seller Parent Ancillary Agreements**” means all agreements, instruments and documents being or to be executed and delivered by Seller Parent under this Agreement or in connection herewith.

“**Seller Party**” means (a) Seller Parent, (b) Seller Parent’s controlled Affiliates (including the Company) and (c) the officers, directors and employees of Seller Parent or any of its controlled Affiliates (including the Company).

“**Seller Pension Plans**” means any Pension Plan sponsored by Seller or its Affiliates.

“**Shared Contract Obligations**” means those provisions and obligations under each Shared Contract to the extent they relate to the Business and are attributable to the period on and after the Closing under a Shared Contract.

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“**Shared Contract Rights**” means those provisions and rights under each Shared Contract to the extent that they relate to the Business and are attributable to the period on and after the Closing under a Shared Contract.

“**Shared Contracts**” means all Contracts which have rights or obligations affecting both the Business, on the one hand, and other businesses of Seller Parent or any of its controlled Affiliates (other than the Company), on the other hand, and are not primarily related to the Business.

“**Sidley**” has the meaning specified in [Section 13.17\(a\)](#).

“**Software**” means computer software programs, whether in source code, object code or human readable form, and related documentation.

“**Straddle Period**” means any taxable year or period beginning on or before and ending after the Closing Date.

“**Target Working Capital**” means an amount equal to \$30,263,516.

“**Tax**” (and, with correlative meaning, “**Taxes**”) means (a) any and all federal, state, local or foreign income, gross receipts, real or personal property, intangible property, real or personal property, intangible property, escheat or unclaimed property obligation, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add-on minimum, ad valorem, value added, transfer or excise tax, estimated, or any other similar tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty or additions thereto, in each case whether disputed or not, and (b) any liability for the payment of any amounts of the type described in clause (a) as a result of being a member of an affiliated, consolidated, combined or unitary group, as a result of any tax sharing or tax allocation agreement, arrangement or understanding, or as a result of being liable for another Person’s taxes as a transferee or successor or otherwise pursuant to applicable Requirements of Law (excluding any liability arising under [Section 2.1\(c\)\(vi\)](#) with respect to any Transferred Contract the principal subject matter of which is not Tax).

“**Tax Return**” means any return, report or similar statement filed or required to be filed with respect to any Tax (including any attached schedules), including any information return, claim for refund, election, or declaration of estimated Tax, and including any amendments thereof.

“**Termination Date**” has the meaning specified in [Section 12.1\(e\)](#).

“**Third Party**” or “**Third-Party**” means any Person other than Seller Parent, the Company, Buyer or their respective Affiliates.

“**Trade Secrets**” means confidential ideas, trade secrets, know-how, concepts, methods, processes, formulae, reports, data, customer lists, mailing lists, business plans and other proprietary information that provides the owner with a competitive advantage and is subject of efforts by the owner that are reasonable under the circumstances to maintain its secrecy.

“**Trademarks**” means any and all trademarks, service marks, trade dress, logos, slogans and trade names, together with all adaptations, derivations and combinations thereof, and all goodwill associated with any of the foregoing throughout the world.

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“**Transaction Expenses**” means, without duplication, all of the fees and expenses incurred by Seller incident to the negotiation and preparation of this Agreement and its performance and compliance with the agreements and conditions contained herein, including (i) the fees and expenses of Seller’s bankers, counsel, accountants, advisors, agents and representatives and (ii) any success, transaction, retention, change of control, special or other bonuses, severance payments, or similar amounts payable by the Company to any current or former employee, independent contractor, officer or director, in each case payable upon or in connection with the consummation of the transactions contemplated by this Agreement as well as the employer portion of any Taxes arising from the foregoing.

“**Transitional Marks**” has the meaning specified in Section 8.1(a).

“**Transfer Taxes**” has the meaning specified in Section 8.2(b).

“**Transferred Contracts**” has the meaning specified in Section 2.1(a)(vii).

“**Transferred Tax Returns**” has the meaning specified in Section 2.1(a)(xi).

“**Transferring Employee**” has the meaning specified in Section 8.3(a).

“**Transition Services Agreement**” means the agreement substantially in the form of Exhibit C providing for certain transition services by NiSource Corporate Services Company to Buyer and its applicable Affiliates after the Closing.

“**Treasury Regulation**” means any regulation promulgated under the Code by the United States Department of Treasury.

“**U.S.**” means the United States of America.

“**Union Employee**” has the meaning specified in Section 8.3(a).

“**Upward Adjustment Amount**” has the meaning specified in Section 4.5(c)(i).

“**Wilmer Hale**” has the meaning specified in Section 13.17(a).

“**Working Capital Deficit**” has the meaning specified in Section 3.1.

“**Working Capital Excess**” has the meaning specified in Section 3.1.

Section 1.2. Interpretation. In this Agreement (including the annexes, exhibits and schedules to this Agreement):

- (a) words denoting the singular include the plural and vice versa, and words denoting any gender include all genders;
- (b) “including” means “including without limitation;”
- (c) when calculating the period of time within which or following which any act is to be done or step taken, the date that is the reference day in calculating such period shall be excluded and, if the last day of such period is not a Business Day, the period shall end on the next day that is a Business Day;
- (d) all dollar amounts are expressed in United States dollars, and all amounts payable hereunder shall be paid in United States dollars;

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- (e) money shall be tendered by wire transfer of immediately available federal funds to the account designated in writing by the party that is to receive such money;
- (f) unless the context otherwise requires, references herein to articles, sections, annexes, exhibits and schedules mean the articles and sections of, and the annexes, exhibits and schedules attached to, this Agreement;
- (g) the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole, including the exhibits and schedules to this Agreement, and not only to a particular section in which such words appear;
- (h) the phrase “to the extent” shall mean the extent or degree to which a subject or thing extends, and not simply be construed to mean the word “if”;
- (i) a document shall be “made available” or delivered to Buyer if such document is deposited in the Data Room and Buyer is provided access thereto, or was otherwise provided to Buyer on the date hereof, on or prior to 5:30 p.m. Eastern Time on the date hereof; and
- (j) the term “or” shall not be deemed to be exclusive.

ARTICLE II PURCHASE AND SALE

Section 2.1. Purchase and Sale.

(a) Purchased Assets. Except as expressly identified as an Excluded Asset in Section 2.1(b), upon the terms and subject to the conditions of this Agreement, on the Closing Date, (x) the Company shall sell, transfer, assign, convey and deliver to Buyer, and Buyer shall purchase and accept from the Company, free and clear of all Encumbrances (except for Permitted Encumbrances), all of the Company’s right, title and interest, in, to and under all assets, properties and rights held by the Company as of the Closing, of every type and description, tangible and intangible, (y) Seller Parent shall sell, transfer, assign, convey and deliver to Buyer, and Buyer shall purchase and accept from Seller Parent, free and clear of all Encumbrances (except for Permitted Encumbrances), all of Seller Parent’s right, title and interest, in, to and under the notes receivable held by Seller Parent in respect of the Intercompany Loans, (z) Seller Parent shall and shall cause the Company’s Affiliates to transfer, assign, convey and deliver to Buyer, and Buyer shall accept from Seller Parent and such Affiliates, free and clear of all Encumbrances (except for Permitted Encumbrances), all of Seller Parent’s and such Affiliates’ right, title and interest, in, to and under (I) all assets, properties and rights held by Seller Parent or such Affiliates as of the Closing wherever located and whether or not reflected in the Business Records, that primarily relate to the Business and (II) the Business Records held by Seller Parent or such Affiliates as of the Closing to the extent related to the Business (the assets described in clauses (x), (y) and (z) collectively, the “Purchased Assets”), including all of the Company’s, Seller Parent’s and their Affiliates’ right, title and interest, in, to and under the following:

- (i) all Owned Real Property listed in Section 5.8(a) of the Seller Disclosure Letter, together with all structures, facilities, fixtures, systems, improvements and items of property located thereon, or attached or appurtenant thereto;

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- (ii) all Real Property Leases for the Leased Real Property listed in Section 5.8(b) of the Seller Disclosure Letter, including any leasehold improvements thereto;
- (iii) all Easements;
- (iv) all machinery, equipment (including information technology, communications equipment and computers), vehicles, furniture, tools, tooling, dies, stores, parts, supplies, prototypes and other tangible and electronic embodiments of Intellectual Property and Software and personal property owned by (I) the Company or (II) its Affiliates that, in the case of clause (II), primarily relate to the Business;
- (v) all Company IP owned by (I) the Company or (II) its Affiliates that, in the case of clause (II), primarily related to the Business (which, for the avoidance of doubt, includes all Software included in the Company IP owned by (I) the Company or (II) its Affiliates that, in the case of clause (II), primarily relates to the Business);
- (vi) all of the Company's prepaid expenses, accounts receivable, trade accounts and notes receivable, including payments with respect thereto actually received by the Company after the Closing, and all other assets of the Company reflected in Net Working Capital (as finally determined);
- (vii) subject to Section 2.2, (A) all Contracts to which the Company is a party and (B) all Contracts to which any of the Company's Affiliates is a party that primarily relate to the Business (other than any Contracts that constitute Excluded Assets, the "**Transferred Contracts**"), including all Contracts pursuant to which (I) the Company licenses Software or Intellectual Property or (II) any of the Company's Affiliates licenses Software or Intellectual Property that, in the case of clause (II), primarily relates to the Business, and those Contracts set forth in Section 5.14 of the Seller Disclosure Letter, in each case, unless earlier terminated, cancelled or expired in accordance with the terms hereof and thereof;
- (viii) all Permits, including all Governmental Permits, all Environmental Permits and all franchises, powers and rights of the Business as a gas company under Massachusetts General Laws Chapter 164, in each case (A) of the Company or primarily related to the Business and (B) to the extent transferable;
- (ix) all of (I) the Company's or (II) its Affiliates' rights, claims or causes of action against Third Parties, in the case of clause (II) primarily related to the Business; provided, that such rights, claims and causes of action will be assigned without warranty or recourse;
- (x) all warranties, indemnities and guarantees given to (I) the Company or (II) its Affiliates to the extent, in the case of clause (II), primarily related to the Business and all benefits arising therefrom, including those made or given by manufacturers, contractors, architects, engineers, consultants, vendors, suppliers and other Third Parties;

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(xi) all property Tax Returns and state utility Tax Returns of the Company or any other Tax Returns and Tax records relating exclusively to the Purchased Assets or the Business for taxable periods beginning after January 1, 2015 (the “**Transferred Tax Returns**”);

(xii) all gas and other materials included in the inventory of the Company; and

(xiii) all of the Regulatory Assets.

(b) **Excluded Assets.** Notwithstanding anything to the contrary contained in Section 2.1(a), the following assets shall not be included among the Purchased Assets and are excluded from the sale, assignment, transfer and delivery provided in Section 2.1 (collectively, the “**Excluded Assets**”):

(i) all cash, bank accounts, bank deposits, certificates of deposit, commercial paper, treasury bills and notes, marketable securities and other cash equivalents and all other items of the types included as cash and cash equivalents on the Financial Statements;

(ii) other than the notes receivable held by Seller Parent in respect of the Intercompany Loans, all intercompany receivables, including resulting from any loans owed to the Company or its Affiliates by any of their respective Affiliates;

(iii) the Retained Names and Marks;

(iv) all internet domains (or subdomains) of which any of the Retained Names and Marks forms a part (but not, for the avoidance of doubt, any materials that appear on any such internet domain (or subdomain) that otherwise is a Purchased Asset);

(v) all Business Records to the extent (I) relating to any Excluded Asset or Excluded Liability, (II) the provision of which would violate any applicable Requirements of Law, (III) containing any valuation related to the transactions contemplated hereby or (IV) containing material related to the transactions contemplated by this Agreement or the Excluded Liabilities protected by attorney-client privilege or other legal privilege;

(vi) all Privileged Information;

(vii) all Intangible Franchise Rights;

(viii) all rights, claims, causes of action and defenses of the Company or any of its Affiliates, in each case, to the extent related to any Excluded Asset or Excluded Liability;

(ix) all contracts of insurance, all right, title and interest in, to or under any insurance proceeds (including GLI Insurance Proceeds) and rights to make any claim, or receive any proceeds or other recoveries, under any insurance policy of Seller or any Affiliate thereof, including with respect to the Greater Lawrence Incident;

(x) all Tax refunds, Tax credits or similar benefits of the Company or its Affiliates, including any accumulated deferred income tax balances;

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- (xi) all Tax Returns or other Tax records of Seller or its Affiliates other than the Transferred Tax Returns;
- (xii) all Tax sharing agreements, arrangements or understandings entered into between the Company and its Affiliates;
- (xiii) any collective bargaining agreement or other Contract with any Labor Union;
- (xiv) Seller's (or any of its Affiliates') rights under this Agreement or any certificate delivered or other document delivered in connection herewith, and any of the transactions contemplated hereby and thereby;
- (xv) subject to Section 2.2, the Shared Contracts and the Contracts set forth on Section 2.1(b)(xy) of the Seller Disclosure Letter;
- (xvi) all equity securities, corporate minute books and stock transfer books and the corporate seal (or equivalents) of the Company and its Affiliates;
- (xvii) all Business Records to the extent not related to the Business;
- (xviii) personnel records of any Business Employees and Former Business Employees other than Transferring Employees;
- (xix) except as set forth in Section 8.3, all employee benefit plans, programs, arrangements and agreements sponsored or maintained by Seller or its Affiliates, including the Benefit Plans, and all trusts and other assets or rights related thereto;
- (xx) all consumer appliance warranties made in favor of the Company or any of its Affiliates in connection with the Greater Lawrence Incident; and
- (xxi) all assets, properties and rights of the Company's Affiliates of whatever kind and nature (other than Business Records) that do not primarily relate to the Business.

(c) Assumed Liabilities. On the Closing Date, Buyer shall assume and agree to pay, perform and discharge all obligations and liabilities of the Company (and, where specifically indicated below, the Affiliates of the Company) of every kind or nature in accordance with their respective terms, in each case, except for the Excluded Liabilities, including the following (collectively, the "Assumed Liabilities"):

- (i) all current liabilities of the Company to the extent reflected in Net Working Capital (as finally determined);
- (ii) all liabilities of the Company under leases (whether or not required to be capitalized under GAAP);
- (iii) all obligations of the Company under any Order applicable to the Business, the Purchased Assets or the Assumed Liabilities, except to the extent such obligations relate to Excluded Liabilities;

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- (iv) the Intercompany Loans;
 - (v) the Regulatory Liabilities;
 - (vi) all liabilities of the Company or its Affiliates under the Transferred Contracts (but, in the case of current liabilities, only to the extent reflected in Net Working Capital (as finally determined));
 - (vii) all liabilities of the Company and its Affiliates relating to the Transferring Employees as provided and to the extent set forth in [Section 8.3](#) or arising following the Closing; and
 - (viii) except to the extent such Taxes result from the breach of a representation or warranty set forth in [Section 5.6](#) or a covenant or agreement set forth in this Agreement relating to Taxes or Tax Returns, any (A) Taxes imposed directly on the Purchased Assets with respect to Buyer's operation of the Business following the Closing that are allocated to the Buyer pursuant to [Section 8.2\(a\)](#), and (B) Taxes for which Buyer is responsible pursuant to [Section 8.2\(b\)](#).
- (d) **Excluded Liabilities.** Notwithstanding anything to the contrary contained in [Section 2.1\(c\)](#), Buyer shall not assume, or be obligated to pay, perform or otherwise discharge, and the Assumed Liabilities shall not include, the following liabilities, obligations or commitments of the Company or its Affiliates (collectively, the "**Excluded Liabilities**"):
- (i) any liability not related to the Business;
 - (ii) any liability to the extent related to any Excluded Asset;
 - (iii) any current liability to the extent not reflected in Net Working Capital (as finally determined);
 - (iv) any liability of the Company's Affiliates, including indebtedness for borrowed money, not specifically listed in [Section 2.1\(c\)](#);
 - (v) other than the Intercompany Loans, all Business Indebtedness and intercompany payables of Seller and its Affiliates;
 - (vi) all contracts of insurance of Seller and its Affiliates;
 - (vii) any liability arising out of or related to Current Litigation;
 - (viii) any Transaction Expenses;
 - (ix) any liability arising out of or related to the Greater Lawrence Incident and any further emergency events prior to Closing related to the restoration and reconstruction with respect to the Greater Lawrence Incident, including any Losses arising out of or related to any litigation, demand, cause of action, claim, suit, investigation, proceeding, indemnification agreements or rights related to the Greater Lawrence Incident, including any GLI Proceeding;

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(x) any monetary obligations to the extent arising out of or related to the non-compliance with Environmental Permits and Environmental Laws described in Section 5.16 of the Seller Disclosure Letter to the extent such non-compliance occurs prior to the Closing, including, to the extent related to such non-compliance prior to the Closing, the cost of investigating, defending or remediating such non-compliance, and any fines, monetary penalties, charges and costs, and interest thereon, except to the extent (and only to the extent) such obligation is actually and materially increased by any action of Buyer following Closing;

(xi) the Company Notes, the Company Indenture and any liability thereunder or with respect thereto or the redemption thereof;

(xii) any liabilities for (A) Taxes of Seller or any Affiliate thereof, (B) Taxes imposed directly on the Purchased Assets for any Tax period (or portion thereof as allocated to Seller pursuant to Section 8.2(a)), ending on or prior to the Closing Date, (C) any Tax imposed as a result of Seller or any Affiliate thereof being a member of Consolidated Tax Group, (D) Taxes imposed as a result of any Tax sharing or Tax allocation agreement, arrangement or understanding, or as a result of Seller or any Affiliate thereof being liable for another Person's Taxes as a transferee or successor, by Contract or otherwise pursuant to applicable Requirements of Law (excluding any liability arising under Section 2.1(c)(vi) with respect to any Transferred Contract the principal subject matter of which is not Tax) and (E) any Taxes for which Seller is responsible pursuant to Section 8.2(b);

(xiii) all liabilities of the Seller and its Affiliates to, with respect to, or arising under or in connection with (i) without limiting subclause (ii) hereunder or subsection (xvii), salaries, wages, bonuses, vacation or severance pay, expense reimbursement or other compensation, payments or benefits of (x) Transferring Employees earned, accrued or arising prior to the Closing Date or (y) any other current or former employees or other service providers of the Company or any of its Affiliates, including any Business Employees who are not Transferring Employees, regardless of when earned, accrued or arising and, in the case of each of (x) and (y), the employer portion of any Taxes with respect thereto, (ii) except as set forth in Section 8.3(f), Benefit Plans or any other employee benefit plan, policy, agreement or arrangement maintained or contributed to by Seller, the Company or any of their Affiliates, (iii) except as set forth in Section 8.3(f), Title IV of ERISA, (iv) any "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA or (v) the WARN Act, except as provided in Section 8.3(g);

(xiv) all liabilities arising out of or related to any claim made by a Business Employee or Former Business Employee related to any activities or events that took place prior to the Closing;

(xv) all liabilities of the Company, Seller Parent and its Affiliates pursuant to civil claims for injury of persons or damage to property to the extent such injury or damage occurs prior to the Closing;

(xvi) any liability under any collective bargaining agreement or other Contract with any Labor Union;

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(xvii) other than as provided in Section 8.3(f), the sponsorship of, or, any liability under, any Benefit Plan other than as reflected in Net Working Capital (as finally determined) and any other benefit or compensation plan, policy, arrangement or contract sponsored, maintained, contributed to or required to be contributed to by Seller or its Affiliates or ERISA Affiliates; or

(xviii) all liabilities of the Company with respect to Intangible Franchise Rights.

Section 2.2. Efforts to Obtain Consents; Failure to Obtain Consents; Shared Contracts.

(a) Prior to the Closing, each of Seller and Buyer will, in cooperation with the other, use its and cause its Affiliates to use their reasonable best efforts to obtain all consents, approvals and authorizations (each, a "**Consent**") from any Third Parties who are not Governmental Bodies necessary or advisable in connection with the transactions contemplated hereby and by the other documents and instruments to be entered into in connection herewith, including all Consents required in connection with the transfer or assignment of the Transferred Contracts to Buyer; provided, that (i) such reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to Seller, Buyer or the Business of any Contract with, any such Third Party and (ii) Seller shall not agree to any modification of any Purchased Assets in the course of obtaining any Consent where such modification would reasonably be expected to materially adversely affect Buyer or the Business. Each of Seller and Buyer shall provide the other with any information reasonably requested by the other regarding such efforts to obtain Consents. To the extent any required Consent has not been obtained on or prior to the Closing Date, the related Purchased Assets (a "**Delayed Asset**") shall not be transferred hereunder to Buyer or pursuant to Section 7.5 and any related liability that constitutes an Assumed Liability (a "**Delayed Liability**") shall not be assumed hereunder by Buyer (other than this Section 2.2) unless and until such Consent has been obtained.

(b) If there are any Delayed Assets, for a period of 12 months following the Closing Date, Seller will use its reasonable best efforts to provide Buyer with the benefits intended to be assigned in respect of such Delayed Asset and, to the extent that Buyer is provided with such benefits, Buyer shall assume, pay when due and perform any corresponding Delayed Liabilities as and when obligated (subject to the right of Buyer to contest any such obligation in good faith). For a period of 12 months following the Closing Date, Seller shall take such action as Buyer may reasonably request so as (i) to provide Buyer with the benefits of each Delayed Asset (including enforcing any rights reasonably necessary for Buyer to receive the full benefits of such Delayed Asset) and (ii) to effect collection of money or other consideration due and payable under the Delayed Asset. To the extent Buyer has assumed, paid when due and performed any corresponding Delayed Liability as and when obligated, for a period of 12 months following the Closing Date, Seller shall promptly pay over to Buyer all money or other consideration received by it in respect of each Delayed Asset. With respect to each Delayed Asset, as of and from the Closing Date, Seller hereby authorizes Buyer, to the extent permitted by applicable Requirements of Law and the terms of the Delayed Asset, to perform all the obligations and receive all the benefits of Seller under the Delayed Asset.

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(c) For a period of 12 months following the Closing Date, unless such term is extended by mutual agreement of Seller Parent and Buyer, Seller and Buyer shall use reasonable best efforts to cooperate to obtain all Consents required to transfer the Delayed Assets to Buyer as promptly as reasonably practicable, provided, that such reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to Buyer or Seller of any Contract with, any Third Party. At such time and on each occasion after the Closing Date that a Consent shall be obtained with respect to any Delayed Asset, such Delayed Asset shall forthwith be transferred and assigned to Buyer by Seller and all Delayed Liabilities related to such Delayed Asset shall be simultaneously assumed by Buyer. Prior to any such transfer of Delayed Assets, Seller shall use reasonable best efforts to preserve and maintain such Delayed Assets in all material respects consistent with past practice; provided that such reasonable best efforts shall not require the payment of any consideration (monetary or otherwise).

(d) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign, directly or indirectly, any asset or any claim or right or any benefit arising under or resulting from such asset or claim or right if an attempted direct or indirect transfer or assignment thereof, without the Consent of a Third Party, would constitute a breach, default, violation or other contravention of the rights of such Third Party, would be ineffective with respect to any party to an agreement concerning such asset, claim or right or would violate any Requirements of Law. If any transfer or assignment by Seller to Buyer of any interest in, or any acquisition or assumption by Buyer of any liability, obligation or commitment under, any asset, claim or right requires the Consent of a Third Party, then such transfer, assignment, acquisition or assumption shall be made subject to such Consent being obtained. Buyer agrees that, provided that Seller has complied with its obligations in this Section 2.2, and except as otherwise set forth in this Agreement, Seller shall not have any liability to Buyer as a result of the failure, in and of itself, to obtain any such Consent that may be required in connection with the transactions contemplated by this Agreement.

(e) Shared Contracts.

(i) Notwithstanding anything to the contrary in this Agreement, the Purchased Assets shall include Shared Contract Rights, and the Assumed Liabilities shall include Shared Contract Obligations, in each case only to the extent provided in this Section 2.2(c)(i). Except as provided in the foregoing sentence, all provisions of, and rights and obligations which arise under, Shared Contracts shall be Excluded Assets and Excluded Liabilities. Prior to Closing, Seller shall, in cooperation with Buyer, use its reasonable best efforts to identify Shared Contracts containing Shared Contract Rights and Shared Contract Obligations that, in each case, are required to be provided or performed after the Closing Date (such Shared Contracts, the "**Ongoing Shared Contracts**"). Each of Seller and Buyer will, in cooperation with the other, use its reasonable best efforts both before and after the Closing to effect the assignment of the Shared Contract Rights and the Shared Contract Obligations to Buyer under the Ongoing Shared Contracts by, among other things, amending the Ongoing Shared Contracts to separately assign the Shared Contract Rights and the Shared Contract Obligations to Buyer and, if necessary or deemed desirable by Seller and Buyer, to execute new contracts with respect thereto; provided, that such reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the

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concession or provision of any right to, or the amendment or modification in any manner materially adverse to Buyer or Seller of any Ongoing Shared Contract with, any Third Party and provided further that in no event shall Seller or any of its Affiliates have any obligation to any Third Party or to Buyer with respect to any Shared Contract Rights or Shared Contract Obligations following the assignment thereof to Buyer for any obligation that is an Assumed Liability. Unless otherwise agreed by Buyer, such amendments and new contracts shall be on pricing terms equal to the terms applicable to the Business under the associated Ongoing Shared Contract and shall otherwise be on terms and conditions (except for any *de minimis* changes) no less favorable to Buyer than the terms and conditions applicable to the Business under the associated Ongoing Shared Contract. If any Shared Contract Rights are not assigned to Buyer prior to or on the Closing Date, unless the parties otherwise agree in writing, during the remaining term of the applicable Ongoing Shared Contract, not to exceed 12 months, the parties shall use their respective reasonable best efforts to allow Buyer to the extent permitted by applicable Requirements of Law and to the extent reasonably within the contractual or other ability or control of the Company or its Affiliate, as the case may be, to receive such Shared Contract Rights, subject to the Shared Contract Obligations; provided, however, that Buyer shall reimburse the Company or its applicable Affiliate for any reasonable and documented out-of-pocket expenses incurred in connection with any such arrangement.

ARTICLE III PURCHASE PRICE

Section 3.1. Purchase Price. The aggregate purchase price for the Purchased Assets (the "Purchase Price") shall be equal to the sum of: \$1,100,000,000 (One Billion One Hundred Million) dollars (the "Base Purchase Price"), plus the amount (if any) by which Net Working Capital exceeds the Target Working Capital (the "Working Capital Excess") or minus the amount (if any) by which the Target Working Capital exceeds the Net Working Capital (the "Working Capital Deficit"). Buyer shall pay the Purchase Price in accordance with Section 4.2 to an account or accounts designated by Seller Parent or as otherwise directed by Seller Parent in the wire instructions delivered by Seller Parent in accordance with Section 4.2(a).

ARTICLE IV CLOSING

Section 4.1. Closing Date. The Closing shall be consummated on a date and at a time agreed upon by Buyer and Seller Parent, but in no event later than 11:00 a.m. Chicago time on the third (3rd) Business Day after the date on which the conditions set forth in ARTICLE IX and ARTICLE X have been satisfied or waived, at the offices of Sidley Austin LLP, One South Dearborn Street, Chicago, Illinois, or at such other time and place as shall be agreed upon by Buyer and Seller Parent. The date on which the Closing is actually held is referred to herein as the "Closing Date."

Section 4.2. Payment on the Closing Date.

(a) Not less than three (3) Business Days prior to the Closing Date, Seller Parent shall deliver to Buyer a written statement (the "Closing Date Estimate") setting forth (i) Seller Parent's good faith estimate of the amounts of (A) Net Working Capital and (B) the

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Working Capital Excess (if any) or the Working Capital Deficit (if any), together with a calculation of the Purchase Price taking into account such estimates (the "**Estimated Purchase Price**"), based upon the most recent reasonably ascertainable financial information of the Company, and (ii) wire transfer instructions in respect of the payments to be made in accordance with this Section 4.2. Seller Parent shall provide Buyer with a reasonable opportunity to review and comment upon the Closing Date Estimate, and Seller Parent shall consider in good faith any such comments of Buyer.

(b) Any estimated Working Capital Deficit or estimated Working Capital Excess, as applicable, included in the Closing Date Estimate shall be determined from the books and records of the Business and calculated in a manner consistent with the illustrative calculation of Net Working Capital set forth in Exhibit B, using the same accounting methods, policies, practices, procedures, employing consistent classifications, judgments and estimation methodologies set forth in the Agreed Accounting Principles, including in respect of format and reflecting the same line items and same categorical adjustments as are reflected in Exhibit B, and, if reasonably requested by Buyer, Seller Parent shall provide Buyer with documentation and data as may be reasonably appropriate to support the calculations set forth therein.

(c) Subject to fulfillment or waiver (where permissible) of the conditions set forth in ARTICLE IX, at the Closing, Buyer shall pay, or cause to be paid, by wire transfer of immediately available funds to the bank account or accounts specified by Seller Parent in accordance with Section 4.2(a), (i) to Seller Parent an amount equal to the outstanding principal and accrued and unpaid interest under the Intercompany Loans as of the Closing Date and (ii) to the Company an amount equal to the Estimated Purchase Price, less the amount paid to Seller Parent pursuant to the foregoing clause (i).

Section 4.3. Buyer's Additional Closing Date Deliveries. Subject to fulfillment or waiver (where permissible) of the conditions set forth in ARTICLE IX and ARTICLE X, at the Closing, Buyer shall deliver to Seller Parent all of the following:

(a) a certificate of the secretary or an assistant secretary of Buyer, dated the Closing Date, in form and substance reasonably satisfactory to Seller Parent, as to (i) no amendments to the Declaration of Trust since a specified date; (ii) the resolutions of the board of trustees of Buyer authorizing the execution and performance of this Agreement, any Buyer Ancillary Agreement and the transactions contemplated hereby and thereby; and (iii) incumbency and signatures of the officers of Buyer executing this Agreement and any Buyer Ancillary Agreement;

(b) the certificate contemplated by Section 10.5, duly executed by a duly authorized officer of Buyer;

(c) the Transition Services Agreement, duly executed on behalf of Buyer;

(d) the Instrument of Assumption (Company), duly executed on behalf of Buyer;

(e) the Instrument of Assumption (Company Affiliate), duly executed on behalf of Buyer;

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- (f) the Bill of Sale (Company), duly executed on behalf of Buyer;
- (g) the Bill of Sale (Company Affiliate), duly executed on behalf of Buyer;
- (h) the Bill of Sale (Seller Parent), duly executed on behalf of Buyer; and
- (i) the Intellectual Property Assignment Instrument, duly executed on behalf of Buyer, in substantially the form attached hereto as

Exhibit E.

Section 4.4. Seller's Closing Date Deliveries. Subject to fulfillment or waiver (where permissible) of the conditions set forth in ARTICLE IX and ARTICLE X, at the Closing, Seller shall deliver to Buyer all of the following:

(a) a certificate of the secretary or an assistant secretary of Seller Parent, dated the Closing Date, in form and substance reasonably satisfactory to Buyer, as to (i) no amendments to the certificate of incorporation of Seller Parent since a specified date; (ii) the bylaws of Seller Parent; (iii) the resolutions of the board of directors of the Seller Parent authorizing the execution and performance of this Agreement, any Seller Parent Ancillary Agreement and the transactions contemplated hereby and thereby; and (iv) incumbency and signatures of the officers of Seller Parent executing this Agreement and any Seller Parent Ancillary Agreement;

(b) a certificate of the secretary or an assistant secretary of the Company, dated the Closing Date, in form and substance reasonably satisfactory to Buyer, as to (i) no amendments to the certificate of incorporation of the Company since a specified date; (ii) the bylaws of the Company; (iii) the resolutions of (A) the board of directors of the Company and (B) the sole stockholder of the Company, authorizing the execution and performance of this Agreement, any Company Ancillary Agreement and the transactions contemplated hereby and thereby; and (iv) incumbency and signatures of the officers of the Company executing this Agreement and any Company Ancillary Agreement;

(c) the certificate contemplated by Section 9.6, duly executed by a duly authorized officer of Seller Parent;

(d) the Transition Services Agreement, duly executed on behalf of NiSource Corporate Services Company;

(e) the Bill of Sale (Company), duly executed on behalf of the Company;

(f) the Bill of Sale (Company Affiliate), duly executed on behalf of the Company Affiliate party thereto;

(g) the Bill of Sale (Seller Parent), duly executed on behalf of Seller Parent;

(h) the Intellectual Property Assignment Instrument, duly executed on behalf of the Company, in substantially the form attached hereto as Exhibit F;

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(i) an affidavit from the Company (or any other transferor of Purchased Assets) certifying that the Company (or such other transferor) is not a foreign person for purposes of Section 897 and 1445 of the Code, meeting the requirements of Treasury Regulation 1.1445-2(b)(2), and in a form reasonably acceptable to Buyer; and

(j) the Deeds, duly executed on behalf of the Company.

Section 4.5. Adjustment to the Preliminary Purchase Price.

(a) On or before sixty (60) days following the Closing Date (which may be extended by an additional fifteen (15) days upon Buyer's written notice to Seller Parent no later than sixty (60) days following the Closing Date, if Buyer determines it to be reasonably necessary under the circumstances), Buyer shall cause to be prepared and delivered to Seller Parent a written statement (the "**Closing Statement**") and the date on which the Closing Statement is delivered to Seller Parent, the "**Delivery Date**") setting forth Buyer's proposed final calculations of the amount of Net Working Capital, the Purchase Price and the adjustments (if any) to reconcile the Estimated Purchase Price to the final calculation of the Purchase Price. The Closing Statement and the determinations and calculations contained therein shall be determined from the books and records of the Business in a manner consistent with the Agreed Accounting Principles and in accordance with the definitions set forth in this Agreement. The Net Working Capital shall be prepared in a manner consistent with Exhibit B (including in respect of format and reflecting the same line items and same categorical adjustments as are reflected in Exhibit B). Any and all effects on the Business, the Purchased Assets or the Assumed Liabilities of any distributions, financing or refinancing arrangements entered into by Buyer on or after the Closing Date or any other transaction entered into by Buyer on or after the Closing Date shall be entirely disregarded. It shall be assumed that the Business shall be continued as a going concern and there shall not be taken into account any of the plans, transactions or changes that Buyer intends to initiate or make or cause to be initiated or made on or after the Closing Date with respect to the Business, the Purchased Assets or the Assumed Liabilities, or any facts or circumstances that are unique or particular to Buyer or any assets or liabilities of Buyer, or any obligation for the payment of the Purchase Price hereunder.

(b) Seller Parent shall have sixty (60) days (the "**Review Period**") after the Delivery Date to review the Closing Statement. During the Review Period, Buyer shall cooperate with Seller Parent's review of the Closing Statement, and Seller Parent and its duly authorized advisors and representatives shall, upon reasonable notice, have reasonable access during regular business hours, to the personnel with knowledge of the relevant subject matters, properties, work papers, books and records of the Business pertaining to or used in connection with the preparation of the Closing Statement for the limited purpose of Seller Parent's confirmation of the Closing Statement. If Seller Parent disputes any items in the Closing Statement, Seller Parent shall, within the Review Period, deliver written notice to Buyer specifying in reasonable detail each disputed item in the Closing Statement, Seller Parent's calculation of the amount(s) of the disputed items, and attaching reasonably detailed supporting information and Seller Parent's proposed modifications to the Closing Statement, Purchase Price and components thereof (such notice, the "**Dispute Notice**"). Only disputes with respect to the Closing Statement (as permitted hereby) are to be addressed in the Dispute Notice, and all other disputes hereunder shall be subject to Section 13.2. Buyer and Seller Parent shall use

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commercially reasonable efforts for a period of fifteen (15) days (or such longer period as they may mutually agree) to reach an agreement as to any matters properly identified in a timely delivered Dispute Notice as being in dispute. If Seller Parent fails to deliver a Dispute Notice within the Review Period, if any item is not mentioned in dispute in such Dispute Notice or if Buyer agrees to accept any item set forth in the Dispute Notice, then such item is determined to be accepted for purposes of the final determination of the Purchase Price, and any items remaining in dispute after expiration of the fifteen (15) day period following delivery of the Dispute Notice are to be finally and conclusively determined by Ernst & Young LLP or such other independent nationally recognized certified public accounting firm that is mutually selected by the parties (the "**Accounting Firm**") (it being understood that in making such determination, the Accounting Firm shall be functioning as an accounting expert and not as an arbitrator). Each of Seller Parent and Buyer shall execute and deliver a customary engagement letter as may be reasonably requested by the Accounting Firm. Seller Parent and Buyer shall instruct the Accounting Firm to promptly, but no later than thirty (30) days after the deadline set forth in the Accounting Firm Notice (as the same may be amended by the mutual written agreement of the Accounting Firm, Buyer and Seller Parent), determine (based solely on the written presentations of Buyer and Seller Parent timely delivered to the Accounting Firm in accordance with this [Section 4.5\(b\)](#) and not by independent review) only those items remaining in dispute in the Closing Statement (and not with respect to any other matter related to this Agreement, including the interpretation thereof) and to render a written report as to the remaining disputed matters and the resulting calculation of the Purchase Price based on the Accounting Firm's final determination in respect of such items in dispute, which report, absent manifest error, shall thereupon be conclusive and binding upon the parties hereto for all purposes hereunder. Buyer and Seller Parent shall instruct the Accounting Firm that, within five (5) Business Days following its acceptance of its appointment as the Accounting Firm, it shall deliver to Buyer and Seller Parent a written notice (the "**Accounting Firm Notice**") setting forth (i) the deadline for Buyer's and Seller Parent's submission of the written presentations referenced in the immediately preceding sentence (which deadline shall in all events be (A) the same for Buyer and Seller Parent and (B) no sooner than thirty (30) days following the date of delivery of the Accounting Firm Notice (unless otherwise mutually agreed in writing among the Accounting Firm, Buyer and Seller Parent) and no later than sixty (60) days following the date of the Accounting Firm Notice) and (ii) the format in which Buyer and Seller Parent are to submit their written presentations (which format shall be reasonably acceptable to Buyer and Seller Parent). A copy of all materials submitted to the Accounting Firm pursuant to the immediately preceding sentence shall be provided by Seller Parent or Buyer, as applicable, no later than the deadline set forth in the Accounting Firm Notice (as the same may be amended by the mutual written consent of the Accounting Firm, Buyer and Seller Parent), and a copy of such materials shall be provided to the other party hereto concurrently with the submission thereof to the Accounting Firm. In resolving any disputed item, the Accounting Firm shall be bound by the provisions of this [Section 4.5](#) and may not assign a value to any item greater than the greatest value for such item claimed by Buyer or Seller Parent, or less than the smallest value for such item claimed by Buyer or Seller Parent. Subject to the following sentence, each party shall bear its own costs and expenses in connection with the resolution of such disputed items set forth in a Dispute Notice by the Accounting Firm. The fees and expenses of the Accounting Firm shall be borne by Seller Parent and Buyer, in inverse relation to their success with respect to any disputes submitted to the Accounting Firm for resolution. If, before the Accounting Firm renders its determination

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with respect to the disputed items in accordance with this Section 4.5(b), (x) Seller Parent notifies Buyer and the Accounting Firm of its agreement with any items in the Closing Statement or (y) Buyer notifies Seller Parent and the Accounting Firm of its agreement with any items in the Dispute Notice, then in each case such items as so agreed shall be conclusive and binding on all parties hereto for all purposes hereunder immediately upon such notice.

(c) After the Purchase Price has been finally determined in accordance with Section 4.5(b) (as so determined, the "**Final Purchase Price**"), the following payments shall be made:

(i) If the Final Purchase Price exceeds the Estimated Purchase Price (such excess, the "**Upward Adjustment Amount**"), then promptly (but in any event within five (5) Business Days after the determination of the Final Purchase Price), Buyer shall pay the Upward Adjustment Amount pursuant to instructions furnished by Seller Parent.

(ii) If the Estimated Purchase Price exceeds the Final Purchase Price (such excess, the "**Downward Adjustment Amount**"), then promptly (but in any event within five (5) Business Days after the determination of the Final Purchase Price), Seller Parent shall pay the Downward Adjustment Amount pursuant to instructions furnished by Buyer.

(d) Any payment required to be made pursuant to this Section 4.5 shall be made together with interest thereon from the Closing Date to (and including) the date of payment at the rate of interest per annum equal to 30 day LIBOR in effect on the Closing Date as reported in *The Wall Street Journal*.

(e) All payments made pursuant to this Section 4.5 shall be treated by the parties hereto as adjustments to the Purchase Price for income Tax purposes, to the extent permitted by applicable Requirements of Law.

Section 4.6. Withholding. Buyer, Seller and any other applicable withholding agent will be entitled to deduct and withhold from any amounts payable pursuant to or as contemplated by this Agreement any withholding Taxes or other amounts required under the Code or any applicable Requirements of Law to be deducted and withheld; provided, however that Buyer shall consult in good faith with Seller prior to withholding any amounts payable to Seller hereunder. To the extent that any such amounts are so deducted or withheld, such amounts will be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made, and such amounts shall be promptly paid over to the appropriate taxing authority.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF SELLER

As an inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated hereby, Seller represents and warrants to Buyer as of the date hereof and except as set forth in the Seller Disclosure Letter, as follows:

Section 5.1. Organization and Qualification; Power and Authority.

(a) Each of Seller Parent and the Company is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization;

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(b) the Company and each of its Affiliates that owns, leases or operates Purchased Assets is duly qualified or licensed to conduct business and in good standing under the laws of each jurisdiction in which the ownership of the Purchased Assets owned, leased or operated by it or the operation of the Business or location or character of the Purchased Assets owned, leased or operated by it requires such qualification or license, except for failures that would not, individually or in the aggregate, be material to the Business, taken as a whole. The Company does not own, lease or operate any Purchased Assets in any jurisdiction other than its jurisdiction of incorporation and the jurisdictions set forth on Section 5.1(b) of the Seller Disclosure Letter;

(c) the Company and each of its Affiliates that owns, leases or operates Purchased Assets has all requisite corporate power and authority to own, lease and operate the Purchased Assets owned, leased or operated by it, and to carry on the Business as it was conducted immediately prior to the date of this Agreement; and

(d) Seller has made available to Buyer an accurate and complete copy of the charter and bylaws of the Company as in effect as of the date of this Agreement. The Company has no subsidiaries. Except marketable securities held on a short-term basis, the Company does not directly or indirectly own any equity, debt or similar interest in, or any interest convertible into or exchangeable or exercisable for, at any time, any equity or similar interest in, or control, directly or indirectly, any other Person, and the Company is not directly or indirectly, a party to, member of or partner in any partnership, joint venture or similar business entity.

Section 5.2. Capital Structure. All of the outstanding shares or other equity interests of the Company are owned, indirectly, by Seller Parent.

Section 5.3. Authority of Seller; Conflicts.

(a) Each of Seller Parent and the Company has all requisite corporate power and authority to enter into this Agreement and each Seller Ancillary Agreement to which it will be a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and each of the Seller Ancillary Agreements by Seller Parent or the Company, as applicable, and the consummation by Seller Parent and the Company of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Seller Parent and the Company. This Agreement has been duly executed and delivered by each of Seller Parent and the Company and (assuming the valid authorization, execution and delivery of this Agreement by Buyer and the validity and binding effect of this Agreement on Buyer) constitutes the valid and binding obligation of each of Seller Parent and the Company enforceable against it in accordance with its terms, and each of the Seller Ancillary Agreements, upon execution and delivery by Seller Parent or the Company, as applicable, will be (assuming the valid authorization, execution and delivery by Buyer, where Buyer is a party, and any other party or parties thereto) a legal, valid and binding obligation of Seller Parent or the Company, as applicable, enforceable in accordance with its terms, subject, in the case of this Agreement and each of the Seller Ancillary Agreements, to bankruptcy, insolvency, reorganization, moratorium and similar laws of general application relating to or affecting creditors' rights and to general equity principles.

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(b) Except as set forth in Section 5.3 of the Seller Disclosure Letter, the execution and delivery of this Agreement or any of the Seller Ancillary Agreements by Seller, the consummation of any of the transactions contemplated hereby or thereby by Seller or compliance with or fulfillment of the terms, conditions and provisions hereof or thereof by Seller will not:

(i) assuming the receipt of all necessary consents and approvals, the filing of all necessary documents and the expiration or termination of any applicable waiting period as described in Section 5.3(b)(ii), and except as may result solely from any facts or circumstances relating to Buyer, result in a violation or breach of the terms, conditions or provisions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any Encumbrance upon any of the Purchased Assets, under (1) the certificate of incorporation or bylaws of Seller Parent or the Company, (2) any Material Contract, (3) any note, mortgage or financial obligation to which Seller Parent or the Company is a party or by which Seller Parent or the Company is bound, (4) any Court Order to which Seller Parent or the Company is a party or by which Seller Parent or the Company is bound in respect of the Business or (5) any Requirements of Law affecting Seller Parent or the Company, other than, in the case of clauses (2), (3), (4) and (5) above, any such breaches, defaults, rights, loss of rights or Encumbrances that would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole, or would not prevent the consummation of any of the transactions contemplated hereby, or

(ii) require the approval, consent, authorization or act of, or the making by Seller Parent or the Company of any declaration, filing or registration with, any Governmental Body, except (1) in connection, or in compliance, with the provisions of the HSR Act or similar Competition Laws in foreign jurisdictions, (2) the MDPU Approval, (3) the filing with the SEC of such reports under the Exchange Act as may be required in connection with this Agreement and the transactions contemplated hereby, (4) such filings as may be required in connection with the Taxes described in Section 8.2(a) and (5) such approvals, consents, authorizations, declarations, filings or registrations the failure of which to be obtained or made would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole, or would not prevent the consummation of any of the transactions contemplated hereby.

Section 5.4. Financial Information.

(a) Section 5.4(a) of the Seller Disclosure Letter sets forth (i) the unaudited balance sheet of the Company at December 31, 2019 and December 31, 2018 and the related unaudited statements of income and cash flows of the Company for the years then ended (collectively, the "**Financial Statements**") and (ii) the unaudited comparative balance sheet of the Company as at December 31, 2018 and the related unaudited statements of income and cash flows of the Company for the year then ended included in the annual report filed with the MDPU on March 31, 2019. Except as set forth therein and except that the Financial Statements do not include notes, the Financial Statements (x) fairly present in all material respects the financial

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condition and results of operations and cash flows of the Company as of the respective dates, and for the periods referred to in, the Financial Statements, (y) have been prepared in all material respects on a consistent basis with Seller Parent's consolidated financial statements and (z) have been prepared in all material respects in accordance with GAAP, applied on a consistent basis during the periods involved. The accounting principles, methods, practices, reserves and accruals utilized in preparing the Financial Statements are consistent in all material respects with the accounting principles, methods, practices, reserve and accruals utilized in the Agreed Accounting Principles.

(b) Except (i) as set forth in the Financial Statements, (ii) for liabilities incurred in the ordinary course of business consistent with past practice since the date of the Reference Balance Sheet, (iii) for liabilities set forth in [Section 5.4](#) of the Seller Disclosure Letter, (iv) for liabilities related to or arising from the Greater Lawrence Incident and (v) for liabilities that would not reasonably be expected to be material to the Company, there are no liabilities, whether absolute or contingent, of the Company that would be required under GAAP to be reflected on the face of the Reference Balance Sheet.

Section 5.5. Operations Since Reference Balance Sheet Date. Since the Reference Balance Sheet Date, there have been no changes in the assets, results of operations or financial condition of the Company which have had a Material Adverse Effect. Except as set forth in [Section 5.5](#) of the Seller Disclosure Letter, since the Reference Balance Sheet Date through the date of this Agreement, (a) (i) there has not been any damage to, destruction of or loss of any material portion of the Purchased Assets, whether or not covered by insurance, (ii) the Company has operated the Business in the ordinary course other than to the extent arising out of or relating to the Greater Lawrence Incident, and (iii) the Company has not taken any action that if taken after the date of this Agreement would constitute a violation of [Section 7.4\(b\)](#) and (b) without limiting the foregoing, the Company has not accelerated, terminated, modified, canceled or waived any material right under any Material Contract and, to the Knowledge of Seller, no other party to any Material Contract has threatened to take any such action.

Section 5.6. Taxes. Except as set forth in [Section 5.6](#) of the Seller Disclosure Letter, (i) all income and other material Tax Returns required to have been filed by the Company or with respect to the Business or the Purchased Assets have been timely filed in accordance with all applicable Requirements of Law (taking into account extensions properly obtained); (ii) all income and other material Taxes owed by the Company or with respect to the Business or the Purchased Assets (whether or not shown to be due on the Tax Returns referred to in clause (i)) have been timely paid in full; (iii) all Tax Returns described in clause (i) are true and correct in all material respects; (iv) there are no Encumbrances, other than for current Taxes not yet due and payable, for Taxes upon any Purchased Asset; (v) no extension of time within which to file any Tax Return of the Company or with respect to the Purchased Assets or the Business is in effect, and no waiver of any statute of limitations relating to Taxes payable by the Company or with respect to the Business or the Purchased Assets has been granted; (vi) there is no audit or administrative or judicial proceeding pending, being conducted, or claimed with respect to Tax Returns of, or Taxes payable by the Company or with respect to the Business or the Purchased Assets with respect to income Taxes or a material amount of non-income Taxes; (vii) there is no notice of proposed adjustment, deficiency, underpayment of Taxes or any other such notice from a Governmental Body which has not been satisfied by payment or been withdrawn that has been

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received by the Company or any of its Affiliates or by any Seller with respect to the Purchased Assets or the Business; (viii) no claim has been made by any Governmental Body in a jurisdiction where Tax Returns are not filed with respect to the Purchased Assets or the Business that Taxes are required to be paid in or Tax Returns are required to be filed in that jurisdiction by the Company or with respect to the Purchased Assets or the Business; (ix) all material Taxes which were required by law to be withheld, deducted, or collected for payment in connection with amounts paid or owing to or allocable to any employee, independent contractor, creditor, stockholder, or other Person by the Company or with respect to the Purchased Assets or the Business, have been duly withheld, deducted and collected and have been paid to the appropriate Governmental Body or set aside or reserved on the Business Records, and all reporting and recordkeeping requirements related thereto have been complied with; (x) no closing agreements, private letter rulings, Tax holidays, technical advice memoranda or similar agreements or rulings with respect to Taxes or Tax Returns related to the Purchased Assets or the Business have been entered into, issued by, or requested from any Governmental Body; and (xi) no Purchased Asset (including Transferred Contracts) will result in Buyer or any of its Affiliates having any liability or obligation to pay, reimburse, or indemnify any Person for Taxes of any other Person (other than in connection with commercial agreements entered into in the ordinary course of business the primary purpose of which does not relate to Taxes).

Section 5.7. Governmental Permits. The Company owns, holds or possesses all licenses, franchises, permits, privileges, immunities, approvals and other authorizations from the MDPU and each other Governmental Body exercising regulatory jurisdiction over the Company that are necessary to entitle it to own or lease, operate and use its respective properties and assets and to carry on and conduct the Business substantially as conducted immediately prior to the date of this Agreement (collectively, the "Governmental Permits"), except for such Governmental Permits as to which the failure to so own, hold or possess would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole. Except as set forth in Section 5.7 of the Seller Disclosure Letter and except as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole, the Company is in compliance in all material respects with all material terms and conditions of the Governmental Permits owned, held or possessed by it. Nothing in this Section 5.7 constitutes a representation or warranty with respect to Environmental Permits, any and all representations or warranties with respect to which are set forth in Section 5.16.

Section 5.8. Real Property.

(a) The addresses of all real property owned by the Company (collectively, the "Owned Real Property") are set forth on Section 5.8(a) of the Seller Disclosure Letter. The Company holds good and marketable fee simple title to the Owned Real Property free and clear of all Encumbrances, except for Permitted Encumbrances. There are no outstanding options or rights of first refusal which have been granted by the Company to third parties to purchase or lease any Owned Real Property other than such options or rights that would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole. No Affiliate of the Company owns real property primarily related to the Business.

(b) Each Contract for the lease or sublease (each, a "Real Property Lease") of real property under which the Company is a lessee or sublessee is set forth in Section 5.8(b) of the

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Seller Disclosure Letter (collectively, the "**Leased Real Property**") and each Real Property Lease is in full force and effect, other than those Real Property Leases the failure of which to be in full force and effect would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole. Except as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole, (i) the Company is in peaceable possession of each Leased Real Property subject to the terms of the applicable Real Property Lease, (ii) the Company is not in breach or default under, or, to the Knowledge of Seller, alleged to be, in breach or default under any of the Real Property Leases, and, to the Knowledge of Seller, no circumstances or state of facts presently exists which, with the giving of notice or passage of time, or both, would constitute a breach or default under any Real Property Lease, (iii) there are no written or oral subleases, concessions or other contracts granting to any Person other than the Company the right to use or occupy any Leased Real Property, (iv) to the Knowledge of Seller, except as set forth in [Section 5.8\(b\)](#) of the Seller Disclosure Letter, there are no outstanding options or rights of first refusal to purchase all or a portion of such Leased Real Property, (v) to the Knowledge of Seller, all buildings, structures, fixtures, building systems and equipment, and all components which are part of the Leased Real Property are in good condition and structurally sound in all material respects, and all mechanical and other systems located therein, are in good operating condition in all material respects, subject to normal wear, and are sufficient for the operation of the Business as presently conducted in all material respects, (vi) no portion of any facility, building, improvement or other structure located on any of the Leased Real Property has suffered any material damage by fire or other casualty within the past five (5) years which has not been substantially repaired or restored, (vii) the Company or its Affiliate holds good and valid leasehold interests in the Leased Real Property free and clear of all Encumbrances, except for Permitted Encumbrances and (viii) Seller has made available to Buyer prior to the date hereof true and complete copies of each Real Property Lease. The Company and its Affiliates have the right to use all of the Leased Real Property for the conduct of the Business. No Affiliate of the Company is party to any lease or sublease of real property primarily related to the Business.

(c) The Company owns or possesses all of the easements and rights of way with respect to real property necessary to conduct the Business as conducted as of the date of this Agreement (the "**Easements**"), subject to Permitted Encumbrances, except to the extent that the failure to own or possess such Easements would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole.

(d) The Owned Real Property and the Leased Real Property are referred to collectively herein as the "**Real Property**". With respect to the Real Property, neither the Company nor any of its Affiliates has received any written notice of, and to the Knowledge of Seller, there does not exist: (i) any pending or threatened condemnation or similar proceedings, or any sale or other disposition of any Real Property or any part thereof in lieu of condemnation; or (ii) any pending non-compliance with any applicable building and zoning codes or deed restrictions that, in the case of clause (i) or (ii), individually or in the aggregate, would reasonably be expected to be material to the Business, taken as a whole.

Section 5.9. **Personal Property Leases.** [Section 5.9](#) of the Seller Disclosure Letter contains, as of the date of this Agreement, (a) a list of each lease or other agreement or right relating to the Business under which the Company is lessee of, or holds or operates, any machinery, equipment, vehicle or other tangible personal property owned by a Third Party and

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(b) a list of each lease or other agreement or right relating to the Business that primarily relates to the Business under which any of the Company's Affiliates is lessee of, or holds or operates, any machinery, equipment, vehicle or other tangible personal property owned by a Third Party, in the case of clauses (a) and (b), except those which are terminable without penalty on ninety (90) days' or less notice or which provide for annual rental payments of less than \$1,000,000.

Section 5.10. Intellectual Property.

(a) Except as disclosed in Section 5.10(a) of the Seller Disclosure Letter or as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole, (i) the Company owns or has the right to use in the manner currently used all Intellectual Property and Software that is used in and material to the conduct of the Business as currently conducted ("Company IP"), free and clear of any Encumbrance other than Permitted Encumbrances and (ii) to the Knowledge of Seller, as of the date of this Agreement, no Third Party is infringing upon, misappropriating, or otherwise violating the Company IP owned by the Company.

(b) Except as disclosed in Section 5.10(b) of the Seller Disclosure Letter or, as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole, to the Knowledge of Seller, the conduct of the Business (including the use by the Company of the Company IP) as currently conducted does not infringe upon, misappropriate, or otherwise violate any Intellectual Property or Software of any Third Party.

Section 5.11. Title to Purchased Assets. On the Closing Date, the Company or its Affiliates will have good and valid title to, or a valid leasehold interest in or valid right to use the tangible Purchased Assets, free and clear of all Encumbrances, except for Permitted Encumbrances, and Seller Parent will have good and valid title to the Intercompany Loans, free and clear of all Encumbrances, except for Permitted Encumbrances. Except for the Intercompany Loans held by Seller Parent and the Delayed Assets and the Delayed Liabilities held by Affiliates of the Company, as of the Closing, no Affiliate of the Company will have any right, title or interest in any Purchased Assets or any Assumed Liabilities.

Section 5.12. Sufficiency of Assets. Except (i) as set forth in Section 5.12 of the Seller Disclosure Letter, (ii) the assets used to provide the services to Buyer and its Affiliates under the Transition Services Agreement and (iii) the Excluded Assets, the Purchased Assets, collectively, constitute all of the material assets that are (a) owned or leased in connection the operation of the Business or used in connection with the operation of the Business, and (b) necessary and sufficient to operate the Business in all material respects as conducted as of the date hereof by the Company with certain support services from the Company's Affiliates, assuming receipt of the relevant consents, approvals and authorizations relating to the matters set forth in Section 5.3 of the Seller Disclosure Letter. To the Knowledge of Seller, except as would not reasonably be expected to have a material adverse effect on the Business, taken as a whole, the Purchased Assets are in good working condition and repair (ordinary wear and tear excepted). The Company does not conduct, and has not during the five (5) years prior to the date hereof conducted, any business other than the Business. Nothing in this Section 5.12 constitutes a representation or warranty with respect to non-infringement of any Intellectual Property or Software.

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Section 5.13. No Violation or Litigation. Except as set forth in Section 5.13 of the Seller Disclosure Letter:

(a) The Company and its Affiliates are, and for the past two (2) years have been, in compliance in all material respects with all applicable Requirements of Law and Court Orders in respect of the Business, other than matters relating to Taxes or compliance with Environmental Laws, Environmental Permits or regulation as a utility, all representations with respect to which are the subject of Section 5.6, Section 5.16 and Section 5.18, respectively;

(b) (i) as of the date hereof, and during the two (2)-year period prior to the date of this Agreement, other than to the extent arising out of or relating to the Greater Lawrence Incident, there is no action, proceeding, suit, litigation, arbitration, mediation or other alternative dispute resolution proceeding (each, an "**Action**") pending, or, to the Knowledge of Seller, threatened, against the Business or the Company or the directors, officers or employees of the Company (in their capacities as such), which (A) alleges damages in excess of \$4,000,000, (B) has been brought by or on behalf of a Governmental Body and would reasonably be expected to be material to the Company or the Business or (C) seeks injunctive relief or non-monetary damages and would reasonably be expected to be material to the Company or the Business; and (ii) as of the date hereof, other than to the extent arising out of or relating to the Greater Lawrence Incident, Seller has not received written notice of any pending audit, inquiry, examination or investigation by a Governmental Body that would reasonably be expected to be material to the Company or the Business, nor, to the Knowledge of Seller, has any such audit, inquiry, examination or investigation been threatened in writing. Except as set forth in Section 5.13 of the Seller Disclosure Letter, the Company is not subject to any outstanding order issued by any Governmental Body of competent jurisdiction that is material to the Company (other than orders generally applicable to the industry in which the Company operates); and

(c) as of the date hereof, there is no action, suit or proceeding pending or, to the Knowledge of Seller, threatened that questions the legality of the transactions contemplated by this Agreement or any of the Seller Ancillary Agreements.

Section 5.14. Contracts.

(a) Except as set forth in Section 5.14 of the Seller Disclosure Letter (the "**Material Contracts**"), as of the date of this Agreement, the Company is not a party to or bound by any of the following written agreements or contracts and no Affiliate of the Company is a party to or bound by any of the following written agreements or contracts that primarily relate to the Business:

(i) agreements with respect to employment, or restricting the employment, of any current or former employee of the Company with an annual salary in excess of \$150,000, other than standard employee at-will offer letters, confidentiality agreements and invention assignment agreements;

(ii) collective bargaining agreements or any other Contracts with a labor union, works council, trade union or other employee representative body (each, a "**Labor Union**");

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- (iii) agreements for the payment of severance benefits, retention bonuses, sale or transaction bonuses, change of control payments or similar payments to any Business Employee;
 - (iv) any natural gas supply, gathering, distribution, transportation or storage Contract with any Third Party which involved the payment by Seller or any of its Affiliates or on behalf of the Business of more than \$5,000,000 in the fiscal year ended December 31, 2019;
 - (v) agreements, ordinances, or other grant of any municipal franchise relating to the Business (the "**Franchises**");
 - (vi) any Contract with any Third Party whose arrangements with the Business account for the sale by Seller or any of its Affiliates of any services or products of the Business which involved the payment to the Business of more than \$1,000,000 in the fiscal year ended December 31, 2019;
 - (vii) any material hedging or other material derivative Contract, including with respect to the purchase or sale of natural gas;
 - (viii) any contract requiring the Company to make any community investment of more than \$1,000,000;
 - (ix) any Real Property Lease that individually involves expenditures in excess of \$1,000,000 in any one (1) year;
 - (x) any Contract providing for the extension of credit by the Company, other than (i) the extension of credit to customers in the ordinary course of business consistent with past practice and (ii) normal employee advances and other customary extensions of credit in the ordinary course that are not material in amount;
 - (xi) any loan agreements, promissory notes, indentures, bonds or other instruments involving indebtedness for borrowed money from Third Party lending sources (excluding intercompany indebtedness and trade accounts) or any guaranties of any such indebtedness;
 - (xii) any Contract under which any Third Party has granted a license to use Intellectual Property or Software which is primarily related to and material to the conduct of the Business as currently conducted (other than non-exclusive licenses for the use of third-party Intellectual Property or Software in connection with the sale of products or rendering of services);
 - (xiii) any Contract under which Seller or any of its Affiliates has granted a Third Party a license to use any Intellectual Property or Software which is primarily related to and material to the conduct of the Business as currently conducted (other than customer agreements and other non-exclusive licenses granted in the ordinary course of business);
 - (xiv) any partnership, joint venture or other similar equity investment agreement that is material to the Business;
 - (xv) any Contract with any customer that is not served under tariff rates; or

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(xvi) any covenant not to compete in a Contract described in the preceding clauses (i) through (xiv) of this [Section 5.14\(a\)](#).

(b) Except as set forth in [Section 5.14\(b\)](#) of the Seller Disclosure Letter, each Material Contract is valid and binding on the Company or its Affiliate party thereto and enforceable in accordance with its terms against the Company or such Affiliate, and to the Knowledge of Seller, each other party thereto, in each case subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general application relating to or affecting creditors' rights and to general equity principles. Each Material Contract is in full force and effect and will be in full force and effect in accordance with its terms upon consummation of the transactions contemplated hereby, other than those Material Contracts that expire by their terms on or prior to the Closing and those Material Contracts the failure of which to be in full force and effect would not reasonably be expected to be material to the Business, taken as a whole. Except as set forth on [Section 5.14\(b\)](#) of the Seller Disclosure Letter, Seller, and, to the Knowledge of Seller, each of the other parties thereto, has performed all obligations required to be performed by it under each Material Contract except where any such non-performance has not been or would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole. Except as set forth on [Section 5.14\(b\)](#) of the Seller Disclosure Letter, Seller has not received any written notice of termination with respect to, and to the Knowledge of Seller, no party has any intention to terminate, any Material Contract or exercise any option not to renew thereunder. Neither the Company nor its Affiliate party thereto is in breach or default under, or, to the Knowledge of Seller, alleged to be, in breach or default under any of the Material Contracts, and, to the Knowledge of Seller, no circumstances or state of facts presently exists which, with the giving of notice or passage of time, or both, would constitute a breach or default under any Material Contract.

Section 5.15. [Benefit Plans](#).

(a) [Section 5.15\(a\)](#) of the Seller Disclosure Letter lists each material Benefit Plan.

(b) With respect to each material Benefit Plan, Seller has made available to Buyer (A) a copy of the plan document and all amendments thereto (or, if a Benefit Plan is not reduced to writing, a written summary of such plan's key terms) and (B) if applicable, a copy of the most recent IRS determination letter or opinion letter received, (C) if applicable, each trust agreement, insurance contract, account, or other documents that establish the funding of a vehicle for such Benefit Plan, (D) the most recent summary plan description and any summaries of material modifications, (E) if applicable, the Form 5500 annual report for the most recently completed year, including all schedules and attachments, (F) copies of all estimates of potential withdrawal liability or funded status with respect to any Benefit Plan that is subject to Title IV of ERISA from each of the last three (3) years; and (G) any written notices, letters, or other material correspondence within the last three (3) years from any Governmental Body.

(c) Except as set forth in [Section 5.15\(c\)](#) of the Seller Disclosure Letter, neither the Company nor any of its ERISA Affiliates sponsors, maintains, contributes to, or is required to contribute to or, within the preceding six (6) years has sponsored, maintained, contributed to, or been required to contribute to, or has incurred, or is reasonably expected to

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incur, any liability or obligation with respect to (i) a “multiemployer plan” as defined in Section 3(37) of the Code, (ii) a plan that is or was subject to Title IV of ERISA or Section 412 of the Code, (iii) a “defined benefit plan” as defined in Section 3(35) of ERISA, or (iv) a “multiple employer plan” subject to Section 413(c) of the Code; and no such liability or obligation is reasonably expected to result in a liability or obligation of Buyer. No prohibited transaction (within the meaning of Code Section 4975 and Section 406 of ERISA) has occurred with respect to any Benefit Plan that would reasonably be expected to subject Buyer to a Tax or penalty imposed by either Section 4975 of the Code or Section 502(j) of ERISA in an amount which would reasonably be expected to be material to the Company. All liability of the Company and its ERISA Affiliates under Title IV of ERISA that has been incurred with respect to any Benefit Plan described in this [Section 5.15\(c\)](#), in the last six (6) years has been satisfied in all material respects and each of the Company and its ERISA Affiliates has met in all applicable minimum funding requirements under Section 302 of ERISA and Section 412 of the Code with respect to such Benefit Plans.

(d) Each Benefit Plan, including any associated trust or fund, has been established, and at all relevant times, has been maintained, funded, administered, and operated in compliance in all material respects with its terms and with the applicable requirements of the Code, ERISA and the regulations issued thereunder and any other Requirements of Law.

(e) Each Benefit Plan which is intended to be “qualified” within the meaning of Section 401(a) of the Code has received a favorable determination, or is entitled to rely on an opinion letter, from the IRS as to its qualification under the Code, and to the Knowledge of Seller, no event has occurred since the date of such determination or opinion letter that would reasonably be expected to materially adversely affect the qualified tax-exempt status of any such Benefit Plan and any related trust or result in material liability to the Business.

(f) There are no material actions, suits or proceedings (other than routine claims for benefits) pending or, to the Knowledge of Seller, threatened in connection with any Benefit Plan that would reasonably be expected to result in a material liability to the Business. No Benefit Plan is, or within the last six (6) years has been, the subject of an examination or audit by a Governmental Body, is the subject of an application or filing under, or is a participant in, a government-sponsored amnesty, voluntary compliance, and self-correction of similar program, in each case, that would reasonably be expected to result in material liability to the Business.

(g) Except as would not reasonably be expected to be material to the Business, taken as a whole, all contributions and premiums required to be made under the terms of any Benefit Plan to any funds, insurance contracts or trusts established thereunder or in connection therewith have been properly accrued in accordance with GAAP and have been made by the due date thereof (including any valid extension thereof) in accordance with the terms of such Benefit Plans, the terms of any collective bargaining agreement (to the extent applicable) and applicable statutes, laws and regulations, including ERISA, the Patient Protection and Affordability Act, and the Code.

(h) Except as set forth in [Section 5.15\(h\)](#) of the Seller Disclosure Letter, or as required by this Agreement, the execution, delivery and performance of this Agreement by Seller

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and the consummation of the transactions contemplated by this Agreement will not (alone or in combination with any other event) (i) entitle any Business Employee to any payment (including severance or unemployment pay), (ii) result in any payment becoming due, accelerate the time of payment or vesting of benefits, or increase the amount of compensation due to any Business Employee, or (iii) result in the forgiveness of any indebtedness of any Business Employee.

(i) No Benefit Plan, agreement, contract, arrangement, or plan would reasonably be expected to result, separately or in the aggregate, either alone or together with any other event, in the payment of any "excess parachute payment" within the meaning of Section 280G of the Code or in the imposition of an excise Tax under Section 4999 of the Code (or any corresponding provisions of state, local or foreign Tax law). The Company has no obligation to gross up, compensate, reimburse, indemnify or "make-whole" any Business Employee for any penalty or Tax, including those described in or payable by reason of Sections 280G, 409A or 4999 of the Code.

Section 5.16. Environmental Compliance. Except as set forth in Section 5.16 of the Seller Disclosure Letter, and other than those matters which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the Business, taken as a whole: (i) the Company and the Business are, and for the previous two (2) years have been, in compliance with all applicable Environmental Laws and hold and are in compliance with all Environmental Permits required for ownership of the Owned Real Property or the operation of the Business; (ii) during the past two (2) years, the Company has not been subject to any Order, or received any written notice, and there are no Proceedings pending, or to the Knowledge of Seller, threatened against the Company, in each case, alleging noncompliance with or liability under any Environmental Law or Environmental Permit; (iii) to the Knowledge of Seller, during the past two (2) years, there has been no Release by the Company of any Hazardous Material at the Real Property in a quantity or under conditions that would reasonably be expected to give rise to any liability or remedial obligation on the part of the Company under Environmental Laws; and (iv) during the past two (2) years, the Company has not received written notice that it is or may be liable under Environmental Laws relating to the off-site disposal of Hazardous Materials generated by the operation of the Business.

The representations and warranties set forth in this Section 5.16 are Seller's sole and exclusive representations relating to Environmental Laws, Environmental Permits and Hazardous Materials.

Section 5.17. Employee Relations.

(a) Seller has made available to Buyer a true and complete listing, as of a date no earlier than five (5) Business Days prior to the date hereof, of each Business Employee whose annual base salary exceeds \$150,000 ("Key Employees"), along with their annual base salary as of the date hereof and date of hire.

(b) Except as set forth on Section 5.17(b) of the Seller Disclosure Letter, as of the date of this Agreement the Company is not a party to any collective bargaining or other agreement with any Labor Union representing Business Employees. Except as set forth in Section 5.17(b) of the Seller Disclosure Letter, as of the date of this Agreement: (i) no Labor

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Union not a party to a collective bargaining agreement disclosed in accordance with the preceding sentence represents Business Employees and, to the Knowledge of Seller, no Labor Union is attempting, or in the last two (2) years has attempted, to organize such Business Employees; (ii) there is, and for the past two (2) years there has been, no pending or, to the Knowledge of Seller, threatened labor strike, picketing, slowdown, work stoppage, or lockout or material unfair labor practice complaint or grievance affecting the Company; (iii) no notice, consent or consultation obligations with respect to any Business Employee or Labor Union will be a condition precedent to, or triggered by, the execution of this Agreement or the consummation of the transactions contemplated hereby except pursuant to applicable Requirements of Law; and (iv) there is, and for the last two (2) years there has been, no material Action or material Proceeding pending, or to the Knowledge of Seller, threatened against the Business with respect to labor and employment matters.

(c) To the Knowledge of Seller, no current executive or Key Employee has given notice of termination of employment or otherwise disclosed to Seller plans to terminate employment with the Company within the twelve (12) month period following the date hereof. No executive or Key Employee of the Company is employed under a non-immigrant work visa or other work authorization that is limited in duration. The Company maintains, and has maintained for each of the past two (2) years, a valid Form I-9 for each Business Employee and Former Business Employee.

(d) With respect to the Business, the Company and each of its Affiliates is, and for the past two (2) years has been, in compliance in all material respects with all applicable Requirements of Law respecting employment and employment practices and terms and conditions of employment, including any provision relating to: wages (including minimum wage and overtime pay), hours of work, withholdings and deductions; classification and payment of employees, independent contractors, and consultants; nondiscrimination, non-harassment and non-retaliation in employment; occupational health and safety; worker's compensation; plant closings and mass layoffs; and immigration. No executive or Key Employee of the Company has been the subject of any allegation of sexual harassment, sexual assault, sexual discrimination, or other material allegation of misconduct against another person during his or her tenure with the Company.

Section 5.18. Regulation as a Utility. Except as set forth in Section 5.18 of the Seller Disclosure Letter and except as would not be material to the Business, taken as a whole, all information filed by the Company with or provided by the Company to the MDPU and each Governmental Body exercising regulatory jurisdiction over the Company as a public utility (each, a "Regulatory Entity") since January 1, 2018, including filings in connection with a prior or pending investigation, inquiry or proceeding before a Regulatory Entity (a "Regulatory Proceeding"), was in all material respects true, correct and complete and complied in all material respects with Requirements of Law, judgments or orders as of the date of such filing. All charges that have been made for utility service and all related fees have in all material respects been charged in accordance with the terms and conditions of valid and effective tariffs. The Company holds all franchises, licenses, certificates, determinations, permits, tariffs, and other authorizations, consents, orders and approvals (collectively, "Regulatory Permits") from each Regulatory Entity necessary for the conduct of the Business as conducted immediately prior to the date of this Agreement, except for any such Regulatory Permit the failure of which to hold

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would not reasonably be expected to be material to the Business, taken as a whole. All such Regulatory Permits are in full force and effect and, except as set forth in [Section 5.18](#) of the Seller Disclosure Letter, the Company is in compliance in all material respects with the terms and conditions of such Regulatory Permits. The Company has all Franchises and other rights required under applicable Requirements of Law to provide natural gas distribution service to retail distribution customers located within its service territories in Massachusetts. Except as set forth in [Section 5.18](#) of the Seller Disclosure Letter, the Company is in compliance with all Requirements of Law, judgments or orders applicable to the Company as a public utility or gas utility, except as would not be expected to have a material adverse effect on the Business, taken as a whole. Except as set forth in [Section 5.18](#) of the Seller Disclosure Letter or with respect to the Greater Lawrence Incident, (i) neither the Company nor any of its Affiliates has received any written communication from January 1, 2018 through the date of this Agreement from any Regulatory Entity alleging that the Company or the Business is not in compliance in any material respect with any applicable Regulatory Permit or Requirements of Law and (ii) to the Knowledge of Seller, there are no material ongoing Regulatory Proceedings, inquiries, investigations, proceedings or appeals pending for the amendment, termination or revocation of any Regulatory Permit.

Section 5.19. Customers; Suppliers.

(a) [Section 5.19\(a\)](#) of the Seller Disclosure Letter lists the top ten customers of the Business, as measured by the revenue received by the Company, for each of the years 2019, 2018 and 2017, and the Company's revenue received from each such customer for those years. As of the date hereof, no such top ten customer has canceled or otherwise terminated, and neither Seller nor any of its Affiliates has received written notice from any such top ten customer from 2019 that it intends to terminate or materially decrease or limit its purchases from the Business in 2020 or thereafter.

(b) [Section 5.19\(b\)](#) of the Seller Disclosure Letter lists the top ten suppliers of the Business (other than interstate pipeline transporters), for each of the years 2019, 2018 and 2017, and the amount of the Company's purchases from each such supplier for those years. As of the date hereof, neither Seller nor any of its Affiliates has received written notice from any such top ten supplier from 2019 that it intends to materially limit or decrease or terminate its sales to the Company in 2020 or thereafter.

(c) [Section 5.19\(c\)](#) of the Seller Disclosure Letter lists the top ten interstate pipeline transporters of the Business, for each of the years 2019, 2018 and 2017, and the amount of the Company's purchases from each such transporter for those years. As of the date hereof, neither Seller nor any of its Affiliates has received written notice from any such top ten transporter from 2019 that it intends to materially limit or decrease or terminate its provision of interstate pipeline transportation to the Company in 2020 or thereafter.

Section 5.20. Insurance. [Section 5.20](#) of the Seller Disclosure Letter contains a list of the types of insurance policies and other forms of insurance owned or held by the Company or its Affiliates relating to the Business, or which name the Company as an insured, as of the date of this Agreement (other than any insurance policies relating to any Benefit Plan). Neither the Company nor any of its Affiliates is in material default under any such insurance

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policies. Except as set forth on Section 5.20 of the Seller Disclosure Letter or with respect to the Greater Lawrence Incident, during the past two (2) years, (a) the Company has not made any claim under any such policy respect to which an insurer has denied or disputed with respect to coverage and (b) no insurer has threatened in writing to cancel any such policy. Such insurance policies and other forms of insurance are of the type and in the amounts customarily carried by Persons conducting a business similar to the Business.

Section 5.21. Transactions with Affiliates. Section 5.21 of the Seller Disclosure Letter sets forth all loans, leases, Contracts or arrangements between the Company, on the one hand, and any director, officer or employee of the Company, any immediate family member of such Person or any trust, partnership or corporation in which any such Person, to the Knowledge of Seller, has a material economic interest (including in the Business, the Purchased Assets or the Assumed Liabilities), on the other hand, except for amounts due as salaries and bonuses in the ordinary course or under benefit plans (or otherwise under the ordinary course of employment) and reimbursement of ordinary course expenses. Except as set forth on Section 5.21 of the Seller Disclosure Letter, the Company is not indebted to any Affiliate or any director, officer or employee of the Company (or any immediate family member of such Person or any trust, partnership or corporation in which, to the Knowledge of Seller, any such Person has a material economic interest, or any other Affiliate of a Seller), except for amounts due as normal salaries and bonuses or under benefit plans (or otherwise under the normal course of employment) and in reimbursement of ordinary course expenses, and no such Person is indebted to the Company. Except as set forth in Section 5.21 of the Seller Disclosure Letter, no Affiliate of the Company has agreed to, or assumed, any obligation or duty to guaranty or otherwise assume or incur any obligation or liability of the Company. For purposes of this Section 5.21, “immediate family member” shall mean, with respect to a Person, any other Person related to such Person by blood, adoption, legal custody, marriage, civil union or domestic partnership (including a spouse, domestic partner, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, cousin, niece, nephew, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, adopted child, half-sibling, step family member, and lineal descendant or ancestor).

Section 5.22. No Brokers. No broker, investment banker or other Person, other than Lazard Frères & Co. LLC, the fees and expenses of which will be paid by Seller Parent, is entitled to any broker’s, finder’s or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF BUYER

As an inducement to Seller to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer hereby represents and warrants to Seller as of the date hereof as follows:

Section 6.1. Organization; Qualification. Buyer is a voluntary association duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite power and authority under the Declaration of Trust and Chapter 182 of Part I, Title XXII of the Massachusetts General Laws to own or lease and operate its assets and to carry on its

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businesses in the manner that they were conducted immediately prior to the date of this Agreement. Buyer is duly qualified as a foreign corporation or other organization to do business and, to the extent legally applicable, is in good standing in each jurisdiction where the character of its owned, operated or leased properties or the nature of its activities makes such qualification necessary, except for jurisdictions where the failure to be so qualified or in good standing would not impair the ability of Buyer to perform its obligations hereunder or prevent or materially delay the consummation of any of the transactions contemplated hereby.

Section 6.2. Authority; Conflicts.

(a) Buyer has all requisite power and authority under the Declaration of Trust and Chapter 182 of Part I, Title XXII of the Massachusetts General Laws to execute, deliver and perform this Agreement and each of the Buyer Ancillary Agreements. The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements by Buyer have been duly authorized and approved by all requisite action under the Declaration of Trust and Chapter 182 of Part I, Title XXII of the Massachusetts General Laws and do not require any further authorization or consent of Buyer or its equityholders. This Agreement has been duly authorized, executed and delivered by Buyer and (assuming the valid authorization, execution and delivery of this Agreement by each of Seller Parent and the Company) is the legal, valid and binding agreement of Buyer enforceable in accordance with its terms, and each of the Buyer Ancillary Agreements has been duly authorized by Buyer, and upon execution and delivery by Buyer will be (assuming the valid authorization, execution and delivery by Seller Parent or the Company, as applicable, where Seller Parent or the Company, as applicable, is a party) a legal, valid and binding obligation of Buyer, enforceable in accordance with its terms, subject, in the case of this Agreement and each of the Buyer Ancillary Agreements, to bankruptcy, insolvency, reorganization, moratorium and similar laws of general application relating to or affecting creditors' rights and to general equity principles.

(b) The execution and delivery of this Agreement or any of the Buyer Ancillary Agreements by Buyer, the consummation of any of the transactions contemplated hereby or thereby by Buyer and compliance with or fulfillment of the terms, conditions and provisions hereof or thereof by Buyer will not:

(i) assuming the receipt of all necessary consents and approvals, the filing of all necessary documents and the expiration or termination of any applicable waiting period as described in Section 6.2(b)(ii), result in a breach of the terms, conditions or provisions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under (1) the Declaration of Trust, (2) any note, instrument, contract, agreement, mortgage, lease, franchise or financial obligation to which Buyer is a party or any of its properties is subject or by which they are bound, (3) any Court Order to which Buyer is a party or by which it is bound or (4) any Requirements of Law affecting Buyer, other than, in the case of clauses (2), (3) and (4) above, any such breaches, defaults, rights or loss of rights that, individually or in the aggregate, would not materially impair the ability of Buyer to perform its obligations hereunder or prevent or materially delay the consummation of any of the transactions contemplated hereby; or

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(ii) require the approval, consent, authorization or act of, or the making by Buyer of any declaration, filing or registration with, any Governmental Body, except (1) in connection, or in compliance, with the provisions of the HSR Act or similar Competition Laws in foreign jurisdictions, (2) the MDPU Approval, (3) such consents, approvals, filings and notices as may be required under any Requirements of Law applicable to the Business, (4) such filings as may be required in connection with the Taxes described in [Section 2.1\(c\)\(viii\)](#), and (5) such approvals, consents, authorizations, declarations, filings or registrations the failure of which to be obtained or made would not, individually or in the aggregate, materially impair the ability of Buyer to perform its obligations hereunder or prevent or delay the consummation of any of the transactions contemplated hereby.

Section 6.3. No Violation, Litigation or Regulatory Action.

(a) Except as set forth in [Section 6.3](#) of the Buyer Disclosure Letter:

(i) as of the date hereof, there are no actions, suits or proceedings pending (with respect to which Buyer has been served or otherwise notified) or, to the Knowledge of Buyer, threatened against Buyer or any of its Affiliates which would, individually or in the aggregate, materially impair the ability of Buyer to perform its obligations hereunder or prevent or delay the consummation of any of the transactions contemplated hereby; and

(ii) as of the date hereof, there is no action, suit or proceeding pending or, to the Knowledge of Buyer, threatened that questions the legality of the transactions contemplated by this Agreement or any of the Buyer Ancillary Agreements.

(b) To the Knowledge of Buyer, there exist no facts or circumstances that would reasonably be expected to, individually or in the aggregate, materially impair the ability of Buyer to perform its obligations hereunder or prevent or delay the consummation of any of the transactions contemplated by, or to perform its obligations under, this Agreement and the Buyer Ancillary Agreements.

Section 6.4. Information. Buyer acknowledges that it has been furnished with such documents, materials and information as Buyer deems necessary or appropriate for evaluating the purchase of the Purchased Assets and assumption of the Assumed Liabilities. Buyer confirms that it has (a) conducted to its satisfaction an independent investigation and verification of the financial condition, results of operations, assets, liabilities, properties and projected operations of the Business and the merits and risks of this purchase, and (b) relied solely on the results of its own independent investigation and verification and the representations and warranties of the Seller expressly and specifically set forth in this Agreement, including the Seller Disclosure Letter, in making its determination to proceed with the transactions contemplated by this Agreement. Buyer further acknowledges that it has had the opportunity to ask questions of, and receive answers from, the directors and officers of Seller and its Affiliates with respect to the Purchased Assets, the Assumed Liabilities and the Business and Persons acting on and Seller's behalf with respect to the Purchased Assets, the Assumed Liabilities and the Business concerning the terms and conditions of the purchase of the Purchased Assets and assumption of the Assumed Liabilities.

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Section 6.5. Financing. Buyer will have at the Closing sufficient immediately available funds and the financial ability to make all of the payments contemplated to be made by Buyer under this Agreement and Buyer will have at the Closing the resources and capabilities (financial and otherwise) to perform its obligations under this Agreement. Buyer has not incurred any obligation, commitment, restriction or liability of any kind, and is not contemplating or aware of any obligation, commitment, restriction or liability of any kind, in either case which would impair or adversely affect such resources, funds or capabilities.

Section 6.6. Certain Arrangements. Except as set forth in this Agreement, as of the date hereof, there are no contracts, agreements, arrangements or understandings between Buyer or any of its Affiliates, on the one hand, and any Business Employee or Former Business Employee, on the other hand, relating to the employment of or compensation to be paid to such employee of the Business following the Closing. Except as set forth in this Agreement, as of the date hereof, there are no contracts, agreements, arrangements or understandings between Buyer or any of its Affiliates, on the one hand, and any Business Employee or Former Business Employee, on the other hand, in any way relating to the transactions contemplated by this Agreement or the approval hereof.

Section 6.7. No Brokers. No broker, investment banker or other Person, other than Goldman Sachs & Co. LLC, the fees and expenses of which will be paid by Buyer, is entitled to any broker's, finder's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer.

Section 6.8. Disclosures. Buyer acknowledges that it has been provided with reasonable access and time to review the materials, documents and reports included in the Company's virtual data room that has been used for due diligence in connection with the transactions contemplated by this Agreement (the "Data Room"). Buyer understands and agrees that Seller shall have no liability, obligation or responsibility in connection with, or arising out of, and Buyer is not relying on, any information disclosed in, or ascertainable from, the materials, documents and reports included in the Data Room; provided that nothing in this Section 6.8 shall limit the representations or warranties set forth in ARTICLE V.

ARTICLE VII ACTION PRIOR TO THE CLOSING DATE

The respective parties hereto covenant and agree to take the following actions between the date hereof and the Closing Date:

Section 7.1. Access to Information. Subject to Buyer's obligations under the Confidentiality Agreement, Seller shall afford to the officers, employees and authorized representatives of Buyer (including independent public accountants and attorneys) reasonable access during normal business hours, upon reasonable advance notice, to the offices, properties, business and financial records (including computer files, retrieval programs and similar documentation) of the Business to the extent Buyer shall reasonably deem necessary in order to operate the Business after the Closing; provided, however, that Seller shall not be required to violate any Requirements of Law, Court Order or obligation of confidentiality or privacy to

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which Seller is subject, or to waive any privilege which any of them may possess in discharging its obligations pursuant to this [Section 7.1](#). Seller shall not be required to furnish or otherwise make available to Buyer competitively sensitive information relating to areas of the Business in which Buyer or its Affiliates compete against any of them, or any employee personnel file or medical information; provided, however, that if such information is reasonably requested by Buyer, the parties shall use commercially reasonable efforts to make arrangements to provide such information in a manner that preserves the confidential and competitively sensitive nature of such information. Neither Buyer nor any of its officers, employees, agents or representatives shall have access to any personnel of other businesses of Seller or its Affiliates (other than the officers, employees, agents and representatives of the Company), and Buyer shall not conduct any environmental testing or sampling of the Real Property or any other real property occupied by the Company, in each case, without Seller Parent's prior written consent, which may be withheld in Seller Parent's sole discretion. Buyer agrees that: (x) such investigation shall be conducted in such a manner as not to interfere unreasonably with the operations of Seller; (y) all requests by Buyer for access or availability pursuant to this [Section 7.1](#) shall be submitted or directed exclusively to an individual to be designated by Seller Parent; and (z) Seller shall not be required to provide any books and records or reports based thereon that it does not maintain or prepare in the ordinary course of business.

Section 7.2. Notifications. Buyer shall notify Seller Parent, and Seller Parent shall promptly notify Buyer, if it becomes aware of (i) any action, suit or proceeding that shall be instituted or threatened against such party to restrain, prohibit or otherwise challenge the legality of any transaction contemplated by this Agreement or (ii) any Action instituted after the date hereof against it, any of its controlled Affiliates or any of its or its controlled Affiliates' officers, directors, employees or agents in connection with the Greater Lawrence Incident. Each party hereto shall promptly notify the other if it becomes aware of any action, suit or proceeding that may be threatened, brought, asserted or commenced against Seller or its Affiliates or Buyer or its Affiliates, as the case may be, that would have been listed in [Section 5.13](#) of the Seller Disclosure Letter or [Section 6.3](#) of the Buyer Disclosure Letter, as the case may be, if such action, suit or proceeding had arisen prior to the date hereof.

Section 7.3. Reasonable Best Efforts.

(a) Subject to the terms and conditions of this Agreement, each of Buyer and Seller shall, and shall cause their respective Affiliates to, use its reasonable best efforts to (i) cause the transactions contemplated hereby to be consummated as soon as practicable, (ii) make promptly any required submissions and filings (including to obtain the MDPU Required Regulatory Approval) to Governmental Bodies or under applicable Antitrust Laws with respect to the transactions contemplated hereby, (iii) obtain the transfer effective as of the Closing to Buyer of all Permits that are Purchased Assets that are transferrable and the reissuance effective as of the Closing to Buyer of all Permits that are Purchased Assets that are not transferrable (provided, that, in the case of this clause (iii), such reasonable best efforts shall not require Seller or any of its Affiliates to pay any consideration (monetary or otherwise) or make any offer, acceptance or agreement or commitment to any undertaking, term, condition, liability, obligation, commitment, sanction or other measure), (iv) cooperate with the other parties and promptly furnish information required in connection with such submissions and filings to such Governmental Bodies or under such Antitrust Laws, (v) keep the other parties reasonably

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informed with respect to the status of any such submissions and filings to such Governmental Bodies or under Antitrust Laws, including with respect to: (A) the receipt of any non-action, action, clearance, consent, approval or waiver, (B) the expiration of any waiting period, (C) the commencement or proposed or threatened commencement of any investigation, litigation or administrative or judicial action or proceeding under Antitrust Laws or other applicable Requirements of Law with respect to the transactions contemplated hereby and (D) the nature and status of any objections raised or proposed or threatened to be raised under Antitrust Laws or other applicable Requirements of Law with respect to the transactions contemplated by this Agreement, (vi) obtain all actions or non-actions, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Body necessary to consummate the transactions contemplated hereby as soon as practicable, and (vii) obtain from the Massachusetts Attorney General's Office an agreement, settlement, compromise or consent (A) to terminate with prejudice all pending Actions, claims or proceedings against Seller and its Affiliates under the jurisdiction of the Massachusetts Attorney General's Office and (B) undertaking not to commence any new Action or claim against Seller or its Affiliates relating to the Greater Lawrence Incident (provided, that, in the case of this clause (vii), such reasonable best efforts shall not require Seller, Buyer or any of their respective Affiliates to pay any consideration (monetary or otherwise) or make any offer, acceptance or agreement or commitment to any undertaking, term, condition, liability, obligation, commitment, sanction or other measure). For purposes hereof, "Antitrust Laws" means the Sherman Act, the Clayton Act, the HSR Act, the Federal Trade Commission Act and all other applicable Requirements of Law issued by a Governmental Body that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition; and "MDPU Required Regulatory Approval" means the MDPU Approval, including recognition that the applicable rate base for the Business for ratemaking purposes following the Closing shall be the rate base as of the Closing and that Buyer shall have the burden of showing prudence for any adjustments made to rate base after the Closing, but not before the Closing.

(b) In furtherance and not in limitation of the foregoing each party hereto agrees to (i) make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated by this Agreement as soon as reasonably practicable after the date hereof (and in any event within thirty (30) calendar days after the date hereof, unless the parties otherwise agree to a different date), (ii) supply as soon as practicable any additional information and documentary material that may be requested pursuant to the HSR Act and (iii) use its reasonable best efforts to take, or cause to be taken, all other actions consistent with this Section 7.3 necessary to cause the expiration or termination of the applicable waiting periods under the HSR Act (including any extensions thereof) as soon as practicable.

(c) Each party hereto agrees to jointly (i) make or cause its controlled Affiliates to make, the appropriate filings as soon as practicable (and in any event not later than sixty (60) days following the date hereof) with the MDPU relating to the transactions contemplated hereby, (ii) supply as soon as practical any additional information and documentary material that may be required or requested by the MDPU and (iii) subject to the other terms and conditions of this Section 7.3, use its reasonable best efforts to take or cause its controlled Affiliates to take, all other actions consistent with this Section 7.3 as necessary to obtain any approvals, consents, waivers, permits, authorizations or other actions or non-actions from the MDPU necessary to close the transactions contemplated hereby as soon as practicable.

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(d) Buyer and Seller shall, subject to applicable Requirements of Law relating to the exchange of information: (i) promptly notify the other of (and if in writing, furnish the other with copies of) any communication to such Person or its controlled Affiliates from a Governmental Body regarding the filings and submissions described in Section 7.3(a), and permit the other to review and discuss in advance (and to consider in good faith any comments made by the other in relation to) any proposed written response to any communication from a Governmental Body regarding the filings and submissions described in Section 7.3(a), (ii) keep the other reasonably informed of any developments, meetings or discussions with any Governmental Body in respect of any filings, investigation or inquiry concerning the filings and submissions described in Section 7.3(a) and (iii) not independently participate (or permit its controlled Affiliates to participate) in any meeting or discussions with any Governmental Body in respect of any filings, investigation or inquiry concerning the filings and submissions described in Section 7.3(a) without giving the other prior notice of such meeting or discussions and, unless prohibited by such Governmental Body, the opportunity to attend or participate; provided, however, that the parties shall be permitted to redact any correspondence, filing, submission or communication to the extent such correspondence, filing, submission or communication contains competitively or commercially sensitive information and provided further that neither Seller nor Buyer or any of their respective Affiliates shall be required to violate any Requirements of Law, Court Order or obligation of confidentiality or privacy, to which Seller, Buyer or any such Affiliate is subject, or to waive any privilege which any of them may possess in discharging its obligations pursuant to this Section 7.3 (provided, that each party shall use all reasonable efforts, such as the entry into a joint defense agreement, to permit the discharge of such obligations without the loss of such privilege).

(e) In furtherance and not in limitation of the foregoing, but subject to the other terms and conditions of this Section 7.3, Buyer agrees to take, or cause its Affiliates to take, promptly any and all steps necessary to avoid, eliminate or resolve each and every impediment and obtain all clearances, consents, approvals and waivers under Antitrust Laws or other applicable Requirements of Law that may be required by any Governmental Body, so as to enable the parties to close the transactions contemplated by this Agreement as soon as practicable, including (x) offering, settling, accepting, and agreeing, committing to agree or consenting to, any undertaking, term, condition, liability, obligation, commitment, sanction or other measure and (y) committing to and effecting, by consent decree, hold separate orders, trust or otherwise, (i) the sale, license, holding separate or other disposition of assets or businesses of Buyer or any of its subsidiaries, (ii) terminating, relinquishing, modifying, or waiving existing relationships, ventures, contractual rights, obligations or other arrangements of Buyer or its subsidiaries and (iii) creating any relationships, ventures, contractual rights, obligations or other arrangements of Buyer or its subsidiaries (each action described in clause (x) and (y), a "**Remedial Action**"); provided, however, that any Remedial Action may, at the discretion of Buyer, be conditioned upon consummation of the transactions contemplated by this Agreement.

(f) In furtherance and not in limitation of the foregoing, but subject to the other terms and conditions of this Section 7.3, in the event that any litigation or other administrative, judicial, arbitral or other proceeding is commenced or threatened or is reasonably

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foreseeable challenging any of the transactions contemplated by this Agreement and such litigation, action or proceeding seeks, or would reasonably be expected to seek, to prevent, materially impede or materially delay the consummation of the transactions contemplated hereby, Buyer shall use reasonable best efforts to take, or cause its Affiliates to take, any and all action, including a Remedial Action, to avoid or resolve any such litigation, action or proceeding as promptly as practicable. In addition, each of Buyer and Seller and their respective controlled Affiliates shall cooperate with the other and use its reasonable best efforts to contest, defend and resist any such litigation, action or proceeding and to have vacated, lifted, reversed or overturned any ruling, decree, judgment, injunction or other Order, whether temporary, preliminary or permanent, that is in effect and that prohibits, prevents, delays, interferes with or restricts consummation of the transactions contemplated hereby as promptly as practicable.

(g) From the date hereof until the earlier of the Closing Date and the date this Agreement is terminated pursuant to ARTICLE XII, Buyer shall not, nor shall it permit its subsidiaries to, acquire or dispose of or agree to acquire or dispose of any rights, assets, business, Person or division thereof (through acquisition, license, joint venture, collaboration or otherwise), if such acquisition or disposition would reasonably be expected to materially increase the risk of not obtaining any applicable clearance, consent, approval or waiver under Antitrust Laws or other applicable Requirements of Law with respect to the transactions contemplated hereby, or would reasonably be expected to materially prevent or prohibit or impede, interfere with or delay obtaining any applicable clearance, consent, approval or waiver under Antitrust Laws or other applicable Requirements of Law with respect to the transactions contemplated hereby.

(h) Notwithstanding the obligations set forth in this Agreement, Buyer and its Affiliates shall not be required to, and, without the prior written consent of Buyer (which consent may be withheld at Buyer's sole discretion), Seller shall not, in connection with obtaining any consent or approval of any Governmental Body in connection with this Agreement or the transactions contemplated hereby, offer, settle, accept, or agree, commit to agree or consent to, any undertaking, term, condition, liability, obligation, commitment, sanction or other measure (including any Remedial Action), that constitutes a Burdensome Condition. For purposes of this Agreement, "**Burdensome Condition**" shall mean any undertakings, terms, conditions, liabilities, obligations, commitments, sanctions or other measures (including any Remedial Action) that, individually or in the aggregate, would have or would be reasonably likely to have, a material adverse effect on the financial condition, results of operations, assets or liabilities of the Business, taken as a whole.

(i) Buyer shall promptly notify Seller Parent and Seller Parent shall promptly notify Buyer of any notice or other communication from any Governmental Body alleging that such Governmental Body's consent is or may be required in connection with or as a condition to the consummation of the transactions contemplated by this Agreement.

(j) Notwithstanding anything to the contrary contained in this Section 7.3, neither Seller nor any of its Affiliates shall under any circumstance be required in connection with this Agreement to offer or accept, or agree, commit to agree or consent to, any undertaking, term, condition, liability, obligation, commitment, sanction or other measure (other than undertakings, terms, conditions, liabilities, obligations, commitments, sanctions or other

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measures (including monetary payments) that the board of directors of Seller Parent reasonably determines in good faith is reasonable after taking into account any other undertakings, terms, conditions, liabilities, obligations, commitments, sanctions or other measures (including monetary payments) made or to be made by the Company or any of its Affiliates in connection with this Agreement).

(k) Buyer and Seller acknowledge and agree that Section 11.6 and not this Section 7.3 shall govern with respect to any communications, developments, meetings, discussions or other matters with any Governmental Body relating to the Greater Lawrence Incident.

Section 7.4. Operations Prior to the Closing Date.

(a) Except as (i) set forth in Section 7.4(a) of the Seller Disclosure Letter, (ii) contemplated by this Agreement, (iii) with the written approval of Buyer (which Buyer agrees shall not be unreasonably withheld, conditioned or delayed), (iv) as may be required to comply with any applicable Requirements of Law or (v) as may be required or reasonably deemed to be advisable in connection with the Greater Lawrence Incident (provided, that, in the case of this clause (v), (1) the prior written approval of Buyer (which shall not be unreasonably withheld, conditioned or delayed) shall be required if such action or omission materially and adversely affects the Business, taken as a whole, and (2) such efforts or actions of Seller shall, in all material respects, be in compliance with all orders of the MDPU), the Company shall (and Seller Parent shall cause the Company to) use its commercially reasonable efforts (x) to operate and carry on the Business in the ordinary course substantially in the same manner as conducted prior to the date hereof and (y) to preserve the Business and goodwill of the suppliers, contractors, licensors, employees, customers, distributors and others having business relations with the Business.

(b) Notwithstanding Section 7.4(a), except (A) as set forth in Section 7.4(b) of the Seller Disclosure Letter, (B) as contemplated by this Agreement, (C) with the written approval of Buyer (which Buyer agrees shall not be unreasonably withheld, conditioned or delayed), (D) as may be required or reasonably deemed to be advisable to comply with any applicable Requirements of Law or (E) as may be required in connection with the Greater Lawrence Incident; provided, that, in the case of this clause (E), (1) the prior written approval of Buyer (which shall not be unreasonably withheld or delayed) shall be required if such action or omission materially and adversely affects the Business, taken as a whole, and (2) such efforts or actions of Seller shall, in all material respects, be in compliance with all orders of the MDPU:

(i) Seller shall not make any material change in the Business;

(ii) the Company shall not declare, set aside, make or pay any dividend or other distribution other than dividends or distributions of cash or cash equivalents;

(iii) the Company shall not create, incur or assume, or agree to create, incur or assume, any indebtedness for borrowed money (other than money borrowed or advances from any of the Company's Affiliates in the ordinary course of business and that will be settled or repaid in full, or canceled or terminated, at or prior to Closing);

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(iv) Seller shall not (A) increase the compensation, bonus, or pension, welfare, severance or other material fringe benefits payable to, or make any new equity or equity-based awards to, any Business Employee or Former Business Employee (except for increases in pension or welfare benefits under broad-based plans (other than the Company Pension Plans) made in the ordinary course of business consistent with past practice with respect to which Seller shall be solely obligated); (B) pay or grant any severance, termination or change-of-control benefit to any Business Employee or Former Business Employee; (C) adopt, amend, modify or terminate any Benefit Plan, including any plan, policy, agreement or arrangement that would be a Benefit Plan had it been in effect as of the date hereof, or increase benefits provided pursuant to any Benefit Plan or amend the terms of any outstanding equity-based awards (except for adoption, amendment, modification, termination of or benefit increases with respect to broad-based plans in the ordinary course of business consistent with past practice with respect to which Seller shall be solely obligated); (D) take any action to accelerate the vesting, payment or funding of compensation or benefits with respect to any Business Employee or Former Business Employee under any Benefit Plan; (E) change the manner in which contributions to Benefit Plans are made or the basis on which such contributions are determined, except as may be required by GAAP; or (F) make or forgive any loans to any Business Employee or Former Business Employee; in each of (A) – (F), other than (x) as required by any such plan or existing contractual commitments as of the date hereof or Requirements of Law or (y) (1) other than Key Employees, any increase in base salary for individuals of less than four percent (4%) of the affected individual's current base salary, (2) with respect to Key Employees, increases in base salary of less than \$25,000 or (3) any increase in base salary in the ordinary course of business as a result of the promotion of any individual (which shall, for manager-level employees and above, require the consent of Buyer (not to be unreasonably withheld, conditioned or delayed);

(v) the Company shall not acquire, or agree to acquire, in any manner, including by merging or consolidating with, or by purchasing a substantial portion of the stock or assets of, any business or any corporation, partnership, association or other business organization or division thereof other than purchases of assets in the ordinary course of business;

(vi) Seller shall not permit or take any action to cause any of the Purchased Assets to become subject to an Encumbrance (other than a Permitted Encumbrance);

(vii) Seller shall not sell, lease, license, transfer or otherwise dispose of any Purchased Assets (other than cash or cash equivalents or in the ordinary course of business);

(viii) Seller shall not modify, amend, waive, extend or renew or terminate any Material Contract, or enter into any contract that would be classified as a Material Contract if in effect on the date hereof (except for entering into Material Contracts that may be terminated without penalty by the Company or its Affiliate party thereto with 90 days' notice or less);

(ix) the Company shall not write-down or write-up the value of any Purchased Asset, or other than in the ordinary course of business, write-off any accounts receivable or notes receivable;

(x) the Company shall not accelerate or delay the payment of accounts payable, accelerate or delay the collection of any notes or accounts receivable or otherwise fail to pay accounts payable and other business obligations or to collect accounts receivable, in each case other than in the ordinary course of business consistent with past practice;

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(xi) the Company shall not adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Company;

(xii) the Company shall not cancel, surrender, allow to expire or fail to renew, any material Permits;

(xiii) Seller shall not, with respect to the Company or the Business, materially change an existing line of business or enter into a new line of business;

(xiv) Seller shall not make, change or revoke any material Tax election, elect or change any material method of accounting for Tax purposes, amend any material Tax Return, settle any action in respect of Taxes, or enter into any Contract in respect of Taxes with any Governmental Body, in each case, to the extent the same would be binding on Buyer with respect to the Purchased Assets or the Business following the Closing; or

(xv) Seller shall not authorize, commit or agree to do any of the foregoing applicable to it.

(c) Notwithstanding the foregoing, the Company and its Affiliates may cancel intercompany loans (other than the Intercompany Loans).

Section 7.5. Collection of Receivables. From and after the Closing, Buyer shall have the right and authority to collect for its own account all accounts receivables that are included in the Purchased Assets and to endorse with the name of the Company any checks or drafts received with respect to any accounts receivables. The Company shall promptly deliver to Buyer any cash or other property received by it with respect to such accounts receivables, including any amounts any Third Party has paid as interest thereon.

Section 7.6. Exclusive Dealing. During the period from the date of this Agreement through the earlier of the Closing or the termination of this Agreement in accordance with its terms, Seller shall not, nor shall it authorize its representatives to, directly or indirectly, (a) initiate or solicit or knowingly encourage or knowingly facilitate any inquiries, offers or proposals from any third party regarding the acquisition of any equity interest in the Company or 50% or more of the Company's assets (an "Alternative Proposal"), (b) furnish any information with respect to the Company to any Third Party that has made or has informed the Company of its intention to make an Alternative Proposal, (c) participate in or continue any discussions or negotiations with any Third Party regarding an Alternative Proposal or (d) enter into any agreement providing for or otherwise consummate an Alternative Proposal; provided, however, that nothing in the foregoing shall prohibit any discussions or communications with any Governmental Body. During the period from the date of this Agreement through the earlier of the Closing or the termination of this Agreement in accordance with its terms, if the Company receives a bona fide inquiry, offer or proposal from any Third Party with respect to such Third Party making a possible Alternative Proposal (other than any Alternative Proposal involving the acquisition of any direct interest in Seller Parent), the Company shall within 24 hours notify Buyer of such inquiry, offer or proposal. Any such notice to Buyer shall indicate the identity of

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the Person making such proposal, offer or inquiry and the material terms and conditions thereof. Seller shall not release any Person from, or waive any provision of, any confidentiality or standstill agreement with respect to an Alternative Proposal without the prior written consent of Buyer.

ARTICLE VIII
ADDITIONAL AGREEMENTS

Section 8.1. Use of Names.

(a) Other than the Trademarks included in the Purchased Assets, Seller is not conveying ownership rights to Buyer or its Affiliates in or to any of the Trademarks of Seller or any Affiliate of Seller (collectively, the "**Retained Names and Marks**"). As soon as reasonably practicable following the Closing, but no later than the date that is one (1) year after the Closing Date (the "**Post-Closing Usage Period**"), Buyer and its Affiliates shall not use in any manner any of the Retained Names and Marks other than the following Trademarks: (i) "NiSource", (ii) "Bay State Gas", (iii) "Columbia" or (iv) "Columbia Gas of Massachusetts" (collectively, the "**Transitional Marks**").

(b) Subject to the terms and conditions set forth herein, Seller Parent hereby grants to Buyer, solely for use in the Business, a non-exclusive, non-transferable, non-sublicensable, royalty-free license to use, during the Post-Closing Usage Period, the Transitional Marks, without any modifications thereto, that are used by the Company in the conduct of the Business as currently conducted or presently proposed by the Company to be conducted (collectively, the "**Licensed Marks**"). Buyer shall: (i) use the Licensed Marks in substantially the same manner as they are used by the Company in the conduct of the Business as currently conducted or presently proposed by the Company to be conducted; (ii) adhere to a level of quality standards and specifications for the use of the Licensed Marks and the protection of goodwill associated therewith that is at least consistent with that which are adhered to by the Company as of the Closing Date; (iii) comply with all applicable Requirements of Law in connection with the use of the Licensed Marks (including the goods or services in connection with which they are used and the sale, offering for sale, marketing, promotion, advertising and distribution of such goods and services); and (iv) not use any of the Licensed Marks in any manner which is reasonably likely to, or does, damage, tarnish, dilute, denigrate, bring in to disrepute or disparage Seller, its Affiliates, the Licensed Marks.

(c) Seller reserves all rights in and to the Licensed Marks, except those expressly granted to Buyer herein. Buyer acknowledges that the Licensed Marks, and all rights therein and the goodwill pertaining thereto, are owned exclusively by Seller or its Affiliates and agrees that all goodwill generated by the use of the Licensed Marks during the Post-Closing Usage Period shall inure to the sole benefit of Seller and its Affiliates for all purposes. Buyer shall not, and shall cause its Affiliates not to, in any jurisdiction: (i) register or seek to register, directly or indirectly, any of the Licensed Marks or any Trademark confusingly similar to any of the Licensed Marks; (ii) challenge the ownership, use, registrability, validity or enforceability of any of the Licensed Marks, or Seller's or any of its Affiliates' rights thereto; or (iii) contest the fact that Buyer's rights with respect to the Licensed Marks are solely those granted by this Agreement, which rights terminate upon expiration of the Post-Closing Usage Period.

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(d) Except as expressly authorized under Section 8.1(b), Buyer and its Affiliates shall not use, without the prior written consent of Seller Parent, any of the Licensed Marks or any Trademark confusingly similar to any of the Licensed Marks in any (i) advertising or promotional materials or (ii) stationery, business cards, business forms and other similar items included in the Purchased Assets that contain anywhere thereon any of the Licensed Marks. Notwithstanding the foregoing, Buyer and its Affiliates may continue to use the Licensed Marks (A) in connection with making factual and accurate reference in a non-prominent manner that they were formerly affiliated with Seller and its Affiliates, (B) in a manner that would constitute “fair use” under applicable Requirements of Law if any unaffiliated third party made such use or would otherwise be legally permissible for any unaffiliated third party without the consent of the owner thereof, (C) in limited quantities on existing materials for archival or historical purposes, (D) for making references in internal historical, corporate, and tax records and databases, (E) in vestigial references contained in existing computer code and (F) as required by law for record-keeping purposes.

Section 8.2. Tax Matters.

(a) Straddle Period. Any Taxes imposed directly on the Purchased Assets with respect to any Straddle Period (other than Transfer Taxes) will be apportioned and prorated between Seller and Buyer as of the Closing Date with Buyer bearing the expense of Buyer’s proportionate share of such Taxes which shall be equal to the product obtained by multiplying (i) a fraction, the numerator being the amount of the Taxes and the denominator being the total number of days in the Straddle Period times (ii) the number of days in the Straddle Period following the Closing Date, and Seller bearing the remaining portion of such Taxes. When any such Taxes become due and owing, the appropriate prorated amounts shall be calculated by Buyer and Seller shall promptly (but not later than ten (10) days after notice of payment due and delivery of reasonable supporting documentation with respect to such amounts) make any payment required so that the correct prorated amount is paid by Seller. Notwithstanding the foregoing, nothing in this Section 8.2(a) shall limit a Buyer’s recovery under this Agreement pursuant to Article XI.

(b) Transfer Taxes; Bulk Sales. Notwithstanding anything herein to the contrary, any and all real property transfer or gains Taxes, sales Taxes, use Taxes, stamp Taxes, stock transfer Taxes or other similar Taxes imposed on the transactions contemplated by this Agreement (collectively, “Transfer Taxes”), and all Taxes or payments under “bulk sales” or “bulk transfer” or similar laws imposed on the actual transfer from Seller to Buyer of the Purchased Assets pursuant to this Agreement (and not, for the avoidance of doubt, with respect to any Taxes imposed on Seller, with respect to the Purchased Assets or the Business for taxable periods (or portions thereof, as determined in accordance with Section 8.2(a)) on or prior to the Closing Date (including as a transferee or successor or in connection with Massachusetts General Law, Chapter 62C, Section 51), shall be borne fifty percent (50%) by Seller and fifty percent (50%) by Buyer.

(c) Assistance and Cooperation. After the Closing Date, each of Seller and Buyer shall (and cause their respective Affiliates to):

- (i) assist the other party in preparing any Tax Returns which such other party is responsible for preparing and filing;

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(ii) cooperate fully in preparing for any audits of, or disputes with taxing authorities regarding, any Tax Returns that are required to be filed by or with respect to Seller or the Business;

(iii) make available to the other and to any taxing authority as reasonably requested all information, records and documents relating to Taxes imposed with respect to the Purchased Assets or the Business;

(iv) timely sign and deliver such certificates or forms as may be necessary or appropriate to establish an exemption from (or otherwise reduce), or file Tax Returns or other reports with respect to, Taxes described in Section 8.2(b) (relating to sales, transfer and similar Taxes);

provided, that notwithstanding the foregoing or anything to the contrary in this Agreement, none of the parties nor any of their Affiliates shall be required to provide or make available any Tax Returns or Tax information with respect to their respective Consolidated Tax Groups.

(d) Allocation. Following the Closing, Buyer shall prepare an allocation of the purchase price (as determined for Tax purposes) among the Purchased Assets in accordance with applicable Requirements of Law, including Section 1060 of the Code or any similar provision of state or local law (the "Allocation Schedule"). Such allocation and any adjustments thereto shall be allocated in accordance with the principles set forth on Schedule 8.2. Buyer shall deliver a draft of such Allocation Schedule to Seller Parent within one-hundred twenty (120) days after the Closing Date for Seller Parent's review and approval. Seller Parent and Buyer shall work in good faith to resolve any disagreements relating to the Allocation Schedule. The Allocation Schedule, to the extent agreed upon between Seller Parent and Buyer (but not with respect to any disagreement relating thereto which cannot be resolved in connection with Seller Parent's and Buyer's good faith efforts, and for the avoidance of doubt, the parties shall be permitted to take inconsistent positions with respect to any such disputed items as set forth hereunder) shall be final and binding on the parties and the parties shall file their respective Tax Returns (including IRS Form 8594) in accordance with the Allocation Schedule as mutually agreed upon by Buyer and Seller pursuant to this Section 8.2(d).

Section 8.3. Employees and Employee Benefits.

(a) Offers of Employment. Buyer will offer employment to all Business Employees who are (i) actively employed in good standing by Seller (or any of its Affiliates) as of the Closing, effective as of the Closing and (ii) employed in good standing by Seller (or any of its Affiliates) and are on Company-approved leave of absence or disability leave as of the Closing (the "Non-Active Employees"), effective as of the earlier of (i) the date such Business Employee is scheduled to return to work and (ii) six (6) months following the Closing Date or, if later, the expiration of such Business Employee's statutory return right under applicable Requirements of Law (including statutory return rights following the expiration of military leave). For those Business Employees employed at Closing pursuant to a collective bargaining

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agreement or any other Contract with a Labor Union (each, a "**Union Employee**"), such offers will be on terms and conditions established by Buyer, which will include wages and benefits that are substantially comparable in the aggregate to those applicable to Buyer's employees currently employed pursuant to the collective bargaining agreement between NSTAR Electric Company & NSTAR Gas Company d/b/a Eversource Energy and Utility Workers Union of America, A.F.L.-C.I.O., Local 369, dated June 2, 2018 to June 1, 2021 or the collective bargaining agreement between NSTAR Gas Company d/b/a Eversource Energy and The United Steelworkers, AFL-CIO-CLC, Local 12004, dated March 31, 2020 to March 31, 2024. For those Business Employees who are not Union Employees, Buyer will offer employment to each such Business Employee on terms and conditions of employment, including wages and benefits, that are substantially comparable in the aggregate to similarly situated employees of Buyer and its Affiliates. Any such individual to whom Buyer so offers employment and who accepts such employment and actually provides services to Buyer commencing as of the Closing Date or, with respect to a Non-Active Employee, within six (6) months following the Closing Date (or, if later, the expiration of such Business Employee's statutory return right under applicable Requirements of Law (including statutory return rights following the expiration of military leave)) is referred to herein as a "**Transferring Employee**." Buyer will have no liability with respect to any Non-Active Employee who does not return to active service within six (6) months following the Closing Date (or, if later, the expiration of such Business Employee's statutory return right under applicable Requirements of Law (including statutory return rights following the expiration of military leave)), or who does not accept such employment or provide service to Buyer.

(b) **Post-Retirement Welfare Plans.** Following Closing, each Transferring Employee shall be able to participate in the Buyer OPEB Plans in accordance with the terms of such plans and on terms that are no less favorable than those benefits to which other similarly situated employees of Buyer are entitled under the Buyer OPEB Plans.

(c) **Credit for Service for Paid Time Off, Buyer OPEB Plans and Severance.** To the extent that service is relevant for purposes of (i) eligibility for and the calculation of paid time off (including vacation and sick days) or severance benefits under any employee benefit plan, program or arrangement established or maintained by Buyer or any of its Affiliates for the benefit of the Transferring Employees following the Closing Date or (ii) eligibility for and level of benefits under the Buyer OPEB Plans, such plan, program or arrangement shall credit such Transferring Employees for service earned on and prior to the Closing Date with the Company, Seller, any of their Affiliates or any of their predecessors in addition to service earned with Buyer or any of Buyer's Affiliates following the Closing Date.

(d) **Converted Restricted Cash Awards.** Section 8.3(d) of the Seller Disclosure Letter sets forth a schedule of Converted Restricted Cash Awards (as defined in Section 8.3(d) of the Seller Disclosure Letter).

(e) **Bonuses.** Seller shall, or shall cause its Affiliates to, pay to each Transferring Employee the bonus amounts such Transferring Employee earns for the 2020 calendar year under the bonus programs (including applicable collective bargaining agreements) maintained by Seller or its Affiliates for such Transferring Employee pursuant to the terms of such bonus programs and based on the actual achievement of the underlying performance goals, but only to the extent such amounts have not been paid prior to the Closing Date, and pro-rated

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for the number of days during 2020 that the Transferring Employee was employed by Seller and its Affiliates. Any bonus paid pursuant to this Section 8.3(e) shall be paid at the same time 2020 bonuses are paid to employees of Seller and its Affiliates (but in any event no later than March 15, 2021).

(f) **Defined Benefit Pension Plan Transfers.** In advance of Closing, Seller Parent and the Company (i) may, in their discretion and after receiving written consent from Buyer (which shall not be unreasonably withheld, conditioned or delayed), take all actions necessary to merge the Company Pension Plans into a single Pension Plan (the "**Merged Company Pension Plan**"), (ii) shall take all actions necessary to, with respect to all active employees with an accrued pension benefit in the Merged Company Pension Plan who will not be a Transferring Employee but whose employment will remain with Seller Parent or an Affiliate of Seller Parent after Closing and with respect to all former employees who are not Former Business Employees, transfer all liabilities for all such accrued pension benefits in the Merged Company Pension Plan to one or more of the Other Seller Pension Plans, and (iii) shall take all actions necessary to, with respect to all Transferring Employees with an accrued pension benefit in one or more of the Other Seller Pension Plans, transfer all liabilities for all such accrued pension benefits in the Other Seller Pension Plans to the Merged Company Pension Plan. Following the foregoing and as soon as practicable thereafter to effectuate the dual pension transfers in the previous sentence, Seller Parent and the Company shall take all actions necessary to transfer assets from the subtrust for the Merged Company Pension Plan to the subtrust for the Other Seller Pension Plans and transfer assets from the subtrust for the Other Seller Pension Plans to the subtrust for the Merged Company Pension Plan in accordance with Section 414(l) of the Code and Section 4044 of ERISA. The amount of such transfers shall be adjusted as necessary to reflect any administrative or investment expenses paid from one of the applicable trusts with respect to transferred pension obligations. As of Closing, Buyer shall assume sponsorship and all responsibility for the Merged Company Pension Plan. Buyer, the Company and Seller Parent shall take such actions as are necessary and reasonable to cause the transfer of sponsorship of the Merged Company Pension Plan to the Buyer as of the Closing and to effect the transfer of the related assets and benefit liabilities of the Merged Company Pension Plan and its trust, including (i) transferring all assets attributable to the Merged Company Pension Plan in the master trust for the Seller Pension Plans to a newly-created trust or an existing trust established by the Buyer for the Merged Company Pension Plan, (ii) making all filings related to such action with respect to the Merged Company Pension Plan required under the Code or ERISA, (iii) implementing all appropriate communications with participants in the applicable Pension Plans, (iv) transferring appropriate records, (v) providing any notices required under any collective bargaining agreement or the governing documents relating to the applicable Pension Plans, and (vi) taking all such other actions as may be necessary and appropriate to implement the provisions of this Section 8.3(f) in a timely manner. Transferring Employees shall be eligible to continue to participate in the Merged Company Pension Plan following the Closing in accordance with the terms of such plan. After the Closing, neither Seller Parent nor any of its Affiliates shall retain any such liabilities related to the Merged Company Pension Plan other than liabilities associated with the administration of the Company Pension Plans or the Merged Company Pension Plan prior to the Closing Date, or the associated merger of the Company Pension Plans into the Merged Company Pension Plan prior to the Closing Date.

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(g) WARN. Buyer shall be responsible for all liabilities or obligations under the WARN Act and similar Requirements of Law resulting from Buyer's or its Affiliates' actions following the Closing with respect to any and all Transferring Employees, provided, that Seller and its Affiliates shall be responsible for and shall indemnify and hold harmless the Buyer in respect of any liabilities or obligations under the WARN Act and similar Requirements of Law to the extent arising on account of the aggregation of such actions by Buyer or its Affiliates with terminations of employment by the Seller and its Affiliates within 90 days prior to the Closing.

(h) No Third-Party Beneficiaries. The provisions of this Section 8.3 are for the sole benefit of the parties to this Agreement, and nothing in this Section 8.3, expressed or implied, is intended or shall be construed to confer upon or give to any Person (including, for the avoidance of doubt, any Transferring Employee or other current or former employee of Seller or any of its Affiliates), other than the parties hereto and their respective permitted successors and assigns, any legal or equitable or other rights or remedies (including any third-party beneficiary rights). Nothing in this Section 8.3 shall (i) constitute or be deemed to constitute the establishment, adoption or amendment of any Benefit Plan or any other benefit or compensation plan, program, policy, Contract, agreement or other arrangement, or (ii) limit the ability of Buyer or any of its Affiliates from amending, modifying or terminating any benefit or compensation plan, program, policy, agreement, arrangement or Contract at any time assumed, established, sponsored or maintained by any of them or terminating the employment of any Transferring Employee.

Section 8.4. Insurance; Risk of Loss.

(a) Seller will use commercially reasonable efforts to keep insurance policies (other than any insurance plan maintained in connection with a Benefit Plan) currently maintained in respect of the Business or current or former employees of the Business, as the case may be, or suitable replacements therefor, in full force and effect through the Closing. From and after the Closing, Buyer shall be solely responsible for all insurance coverage solely with respect to the Purchased Assets, Assumed Liabilities and Transferring Employees (other than any insurance plan maintained in connection with a Benefit Plan) and related risk of loss to the extent such loss occurs after the Closing.

(b) Buyer acknowledges and agrees that Seller shall retain all right, title and interest in and to any GLI Insurance Proceeds and neither Buyer nor any other Buyer Party shall have any right to make any claim, or receive any proceeds or other recoveries, under any insurance policy of Seller with respect to the Greater Lawrence Incident. Buyer shall not take, and shall cause its Affiliates not to take, any action, including any interference with any insurance company subrogation rights, that could reasonably be expected to impede Seller's ability to obtain any GLI Insurance Proceeds. Buyer shall promptly pay to Seller Parent any GLI Insurance Proceeds received by Buyer or any of its Affiliates and shall have no right of offset, set-off or deduction with respect thereto. Notwithstanding the foregoing, nothing in this Section 8.4(b) shall limit Buyer's rights or remedies in respect of an Excluded Liability.

Section 8.5. Release of Guaranties. Buyer shall use reasonable best efforts to cause Seller and its Affiliates to be fully and irrevocably released, as of the Closing Date or as promptly as practicable after the Closing Date, in respect of all obligations under any guaranties,

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letters of credit, letters of comfort, bid bonds or performance or surety bonds or cash or other collateral obtained or given by Seller or its Affiliates relating to the Business listed in Section 8.5 of the Seller Disclosure Letter (collectively the "**Seller Guaranties**"). Buyer shall indemnify Seller against any and all losses, liabilities, damages, charges, penalties, fees, costs and expenses arising from any Seller Guarantee following Closing if such a substitution and release is not obtained in accordance with the preceding sentence, except to the extent such substitution and release is not obtained as a result of any action or inaction of Seller. Without limiting the foregoing, after the Closing Date, Buyer will not, and will not permit any of its Affiliates, successors or assigns to, (a) renew, extend, amend or supplement any Contract or otherwise extend the term of or increase any obligation that is covered by or the subject of a Seller Guarantee, (b) transfer to a Third Party any such Contract or other obligation or (c) obtain a release from all obligations under such Contract or other obligation contemplated by clause (a) or (b), without providing Seller with evidence reasonably satisfactory to it that the Seller Guaranty has been irrevocably released. Any cash or other collateral posted by Seller or its Affiliates in respect of any Seller Guaranty shall be delivered to Seller promptly following such release.

Section 8.6. Fees and Expenses. Whether or not the transactions contemplated hereby are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including the fees and disbursements of counsel, financial advisors and accountants, shall be paid by the party incurring such costs and expenses.

Section 8.7. Non-Solicitation of Employees. For a period of two (2) years after the Closing Date, Seller shall not, and shall cause its controlled Affiliates not to, without the prior written approval of Buyer, directly or indirectly, solicit, encourage, entice or induce any Transferring Employee to terminate his or her employment with Buyer; provided, however, that Seller shall not be prohibited from placing general advertisements or conducting general employment solicitations (including via a search firm inquiry) that are not targeted at any such individuals, or subsequently hiring or engaging such individuals that respond to such general solicitation.

Section 8.8. Repayment of Company Notes. Prior to the Closing Date, Seller shall use reasonable best efforts to (a) redeem, repurchase, acquire or otherwise repay (collectively, "Repay" or "Repaid," as the context requires) all of the outstanding Company Notes and (b) obtain the requisite consent from the holders of the Company Notes such that the Closing would not cause or result in a default or event of default under the Company Indenture (the "Company Notes Consent"); in the case of each of clause (a) and clause (b), in such manner and by such methods as Seller in its reasonable judgment shall determine. On or prior to Closing, Seller shall provide to Buyer written notice of (i) the aggregate principal amount of each series of Company Notes that Seller or any of its Affiliates has Repaid or is irrevocably committed to Repay prior to, or at the time of, the Closing (assuming the Closing occurs), (ii) the aggregate amount of all fees, costs and expenses incurred or paid, or to be incurred or paid, prior to or at the time of Closing in connection with Seller's efforts to obtain the Company Notes Consent and (iii) a calculation of the Debt Breakage Cost Amount.

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ARTICLE IX
CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligations of Buyer under this Agreement shall, at the option of Buyer, be subject to the satisfaction or (to the extent permissible under applicable Requirements of Law) waiver, on or prior to the Closing Date, of the following conditions:

Section 9.1. Regulatory Approvals. (a) The waiting period under the HSR Act shall have expired or been terminated and (b) the MDPU Required Regulatory Approval shall have been obtained.

Section 9.2. No Order. No court or other Governmental Body having jurisdiction over Buyer or Seller shall have issued any order, decree or ruling which is then in effect and has the effect of restraining or prohibiting the consummation of the Closing.

Section 9.3. Representations and Warranties. Each of the Fundamental Representations shall be true and correct in all respects, except, in each case, for *de minimis* inaccuracies, on the Closing Date as though made on the Closing Date (or on the date when made in the case of any representation or warranty that is made as of a specific date). The representations and warranties of Seller set forth in the first sentence of Section 5.5 shall be true and correct in all respects on the Closing Date as though made on the Closing Date. All of the other representations and warranties of Seller set forth in ARTICLE V, when read without any exception or qualification for materiality or Material Adverse Effect, shall be true and correct on the Closing Date as though made on the Closing Date (or on the date when made in the case of any representation or warranty that is made as of a specific date), except for failures of representations and warranties to be true and correct which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.4. Collective Bargaining Agreements. Buyer shall be reasonably satisfied in good faith that it will not be required under any Requirements of Law to maintain terms and conditions of employment established under any collective bargaining agreement or other Contract with any Labor Union to which the Company is a party.

Section 9.5. Performance of Obligations. Seller shall have performed in all material respects all of its covenants and agreements required by this Agreement to be performed by Seller at or prior to the Closing.

Section 9.6. Closing Certificate. There shall have been delivered to Buyer a certificate dated the Closing Date, signed on behalf of Seller Parent by a duly authorized officer of Seller Parent, confirming the satisfaction of the conditions set forth in Section 9.3 and Section 9.5.

Section 9.7. No Material Adverse Effect. Since the date of this Agreement, there shall not have occurred a Material Adverse Effect.

Section 9.8. Third Party Consents. Seller shall have delivered, or caused to be delivered, to Buyer, all of the consents of Third Parties to assign the Contracts that are set forth in Section 9.8 of the Seller Disclosure Letter, in form and substance reasonably satisfactory to Buyer.

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Notwithstanding the failure of any one or more of the foregoing conditions, Buyer may proceed with the Closing without satisfaction, in whole or in part, of any one or more of such conditions and without written waiver.

ARTICLE X
CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER

The obligations of Seller under this Agreement shall, at the option of Seller, be subject to the satisfaction or (to the extent permissible under applicable Requirements of Law) waiver, on or prior to the Closing Date, of the following conditions:

Section 10.1. Regulatory Approvals. (a) The waiting period under the HSR Act shall have expired or been terminated, and (b) the MDPU Approval shall have been obtained, which approval shall include the MDPU Required Resolution.

Section 10.2. No Order. No court or other Governmental Body having jurisdiction over Buyer or Seller shall have issued any order, decree or ruling which is then in effect and has the effect of restraining or prohibiting the consummation of the Closing.

Section 10.3. Representations and Warranties. Each of the representations and warranties of Buyer set forth in Section 6.1 and Section 6.2(a) shall be true and correct in all respects, except, in each case, for *de minimis* inaccuracies, on the Closing Date as though made on the Closing Date (or on the date when made in the case of any representation or warranty which specifically relates to an earlier date). All of the other representations and warranties of Buyer set forth in ARTICLE VI, when read without any exception or qualification for materiality, shall be true and correct in all material respects on the Closing Date as though made on the Closing Date (or on the date when made in the case of any representation or warranty which specifically relates to an earlier date), except for failures of representations and warranties to be true and correct which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby.

Section 10.4. Performance of Obligations. Buyer shall have performed in all material respects all of its covenants and agreements required by this Agreement to be performed by Buyer at or prior to the Closing.

Section 10.5. Closing Certificate. There shall have been delivered to Seller Parent a certificate dated the Closing Date, signed on behalf of Buyer by a duly authorized officer of Buyer, confirming the satisfaction of the conditions set forth in Section 10.3 and Section 10.4.

Section 10.6. Collective Bargaining Agreements. Each Labor Union with respect to which the Company is party to a collective bargaining agreement governing the employment of Business Employees shall have confirmed, or Seller Parent shall otherwise be reasonably satisfied in good faith, that the Company will have no liability under such collective

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bargaining agreements arising from the consummation of the transactions contemplated by this Agreement or, following the consummation of the transactions contemplated by this Agreement, with respect to the period on or after the Closing.

Notwithstanding the failure of any one or more of the foregoing conditions, Seller may proceed with the Closing without satisfaction, in whole or in part, of any one or more of such conditions and without written waiver.

ARTICLE XI INDEMNIFICATION

Section 11.1. Indemnification by Seller.

(a) From and after the Closing, Seller agrees to, jointly and severally, indemnify and hold harmless Buyer and its officers, directors, employees, Affiliates, agents and representatives, and each of the heirs, executors, successors and assigns of any of the foregoing (each a "**Buyer Indemnitee**") from and against any and all Losses incurred by any Buyer Indemnitee resulting from or arising out of, directly or indirectly:

(i) any breach of any warranty or the inaccuracy of any representation of Seller contained in this Agreement or the certificate delivered pursuant to Section 9.6; provided, that, qualifications as to materiality, Material Adverse Effect or other qualifiers of similar import contained in such representations and warranties shall not be given effect for determining whether a breach of such representations and warranties has occurred or for purposes of calculating any Losses;

(ii) any breach by Seller of, or failure by Seller to perform, any of its covenants or obligations contained in this Agreement that are required to be performed at or prior to the Closing;

(iii) any breach by Seller of, or failure by Seller to perform, any of its covenants and obligations contained in this Agreement that are required to be performed after the Closing;

(iv) any Excluded Liabilities; and

(v) Fraud by Seller;

provided, however, that Seller shall be required to indemnify and hold harmless under Section 11.1(a)(i) with respect to Losses incurred by any Buyer Indemnitee only to the extent that:

(x) other than with respect to Fundamental Representations, the amount of Loss suffered by the Buyer Indemnitees pursuant to Section 11.1(a)(i) related to each individual claim exceeds \$200,000 (it being understood that such \$200,000 shall be a per claim deductible for which Seller shall bear no indemnification responsibility);

(y) other than with respect to Fundamental Representations, the aggregate amount of such Losses suffered by the Buyer Indemnitees pursuant to

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Section 11.1(a)(i) (other than Losses excluded by clause (x) above) exceeds \$5,500,000 (the “**Deductible**”), in which case the Buyer Indemnitees shall be entitled to recover the aggregate amount of such Losses in excess of the Deductible; and

(z) other than with respect to Fundamental Representations, the aggregate amount required to be paid by Seller pursuant to Section 11.1(a)(i) shall not exceed \$88,000,000 (the “**Cap**”),

provided, further, that the aggregate amount required to be paid by Seller pursuant to Section 11.1(a)(i) and Section 11.1(a)(y) shall not exceed the Purchase Price.

(b) The indemnification provided for in Section 11.1(a)(i) and Section 11.2(a)(ii) shall terminate twelve (12) months after the Closing Date (and no claims shall be made by the Buyer Indemnitees under Section 11.1(a)(i) or Section 11.1(a)(ii) thereafter), except that the indemnification by Seller shall continue as to Fundamental Representations until 60 days after the expiration of the relevant statutory period of limitations applicable to the underlying claim, giving effect to any waiver, mitigation or extension thereof; the indemnification provided for in Section 11.1(a)(iii) and Section 11.1(a)(y) shall terminate upon the expiration of the relevant statute of limitations applicable to the underlying claim and the indemnification provided for in Section 11.1(a)(iv) shall survive indefinitely; provided, in each case, that any Losses of which any Buyer Indemnitee has validly given a Claim Notice to Seller in accordance with the requirements of Section 11.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 11.1, as to which the obligation of Seller shall continue solely with respect to the specific matters in such Claim Notice until the liability of Seller shall have been determined pursuant to this ARTICLE XI, and Seller shall have reimbursed the Buyer Indemnitee for the full amount of such Losses that are payable with respect to such Claim Notice in accordance with this ARTICLE XI.

Section 11.2. Indemnification by Buyer.

(a) From and after the Closing, Buyer agrees to indemnify and hold harmless Seller and its officers, directors, employees, Affiliates, agents and representatives, and each of the heirs, executors, successors and assigns of any of the foregoing (each a “**Seller Indemnitee**”) from and against any and all Losses incurred by any Seller Indemnitee resulting from or arising out of:

(i) any breach of any warranty or the inaccuracy of any representation of Buyer contained in this Agreement or the certificate delivered pursuant to Section 10.5;

(ii) any breach by Buyer of, or failure by Buyer to perform, any of its covenants or obligations contained in this Agreement that are required to be performed at or prior to the Closing;

(iii) any breach by Buyer of, or failure by Buyer to perform, any of its covenants and obligations contained in this Agreement that are required to be performed after the Closing;

(iv) any Assumed Liability (provided, that, this clause (iv) shall not limit any recovery of any Buyer Indemnitee under Section 11.1(a));

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(v) any liability in respect of the ownership or operation of the Business and the Purchased Assets following the Closing (provided, that, this clause (v) shall not limit any recovery of any Buyer Indemnitee under Section 11.1(a)); and

(vi) Fraud by Buyer,

provided, however, that the aggregate amount required to be paid by Buyer pursuant to Section 11.2(a)(i) other than with respect to representations and warranties contained in the first sentence of Section 6.1, Section 6.2(a) and Section 6.7, shall not exceed the Cap;

provided, further, that the aggregate amount required to be paid by Buyer pursuant to Section 11.2(a)(i) and Section 11.2(a)(vi), shall not exceed the Purchase Price.

(b) The indemnification provided for in Section 11.2(a)(i) and Section 11.2(a)(ii) shall terminate twelve (12) months after the Closing Date (and no claims shall be made by the Seller Indemnitees under Section 11.2(a)(i) or Section 11.2(a)(ii) thereafter), except that the indemnification by Buyer shall continue as to the representations and warranties contained in the first sentence of Section 6.1, Section 6.2(a) and Section 6.7 until 60 days after the expiration of the relevant statutory period of limitations applicable to the underlying claim, giving effect to any waiver, mitigation or extension thereof; the indemnification provided for in Section 11.2(a)(iii) and Section 11.2(a)(vi) shall terminate upon the expiration of the relevant statute of limitations applicable to the underlying claim and the indemnification provided for in Section 11.1(a)(iv) and Section 11.1(a)(v) shall survive indefinitely; provided, in each case, that any Losses of which any Seller Indemnitee has validly given a Claim Notice to Buyer in accordance with the requirements of Section 11.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 11.2, as to which the obligation of Buyer shall continue solely with respect to the specific matters in such Claim Notice until the liability of Buyer shall have been determined pursuant to this ARTICLE XI, and Buyer shall have reimbursed the Seller Indemnitee for the full amount of such Losses that are payable with respect to such Claim Notice in accordance with this ARTICLE XI.

Section 11.3. Notice of Claims. A Buyer Indemnitee or a Seller Indemnitee seeking indemnification hereunder (the "Indemnified Party") shall give promptly to the party obligated to provide indemnification to such Indemnified Party (the "Indemnitor") a notice (a "Claim Notice") describing in reasonable detail the facts giving rise to the claim for indemnification hereunder and shall include in such Claim Notice (if then known) the amount or the method of computation of the amount of such claim, and a reference to the provision of this Agreement or any other agreement, document or instrument executed hereunder or in connection herewith upon which such claim is based; provided, however, that a Claim Notice in respect of any action at law or suit in equity by or against a Third Party as to which indemnification will be sought shall be given promptly after the action or suit is commenced; provided, further, that failure to give such notification shall not affect the indemnification provided hereunder, except to the extent (and only to the extent) the Indemnitor shall have been actually and materially prejudiced as a result of such failure.

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Section 11.4. Determination of Amount.

(a) After the giving of any Claim Notice pursuant to Section 11.3, the amount of indemnification to which an Indemnified Party shall be entitled under this ARTICLE XI shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a final judgment or decree of any court of competent jurisdiction; or (iii) by any other means to which the Indemnified Party and the Indemnitor shall agree. The judgment or decree of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined. The Indemnified Party shall have the burden of proof in establishing the amount of Losses and Expenses suffered by it.

(b) Buyer and Seller agree to report each indemnification payment made in respect of a Loss as an adjustment to the Purchase Price for federal income Tax purposes.

Section 11.5. Third-Party Claims.

(a) Any party seeking indemnification provided for under this Agreement in respect of, arising out of or involving any filed, served, or threatened legal complaint, subpoena, civil investigative demand, regulatory or administrative proceeding, or request to toll the statute of limitations with respect to any of the foregoing (a "Claim") made by any Third Party against the Indemnified Party shall notify the Indemnitor in writing, and in reasonable detail, of the Third-Party Claim within ten (10) Business Days after receipt by such Indemnified Party of written notice of the Third-Party Claim. Thereafter, the Indemnified Party shall deliver to the Indemnitor, within five (5) Business Days after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third-Party Claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a Third-Party Claim, the Indemnified Party shall notify the Indemnitor with a copy of the complaint within five (5) Business Days after receipt thereof and shall deliver to the Indemnitor within seven (7) Business Days after the receipt of such complaint copies of notices and documents (including court papers) received by the Indemnified Party relating to the Third-Party Claim. The failure to give notice as provided in this Section 11.5(a) shall not relieve the Indemnitor of its obligations hereunder except to the extent (and only to the extent) it shall have been actually and materially prejudiced by such failure.

(b) Any notice of a Claim by reason of any of the representations, warranties or covenants contained in this Agreement shall contain a reference to the provision of this Agreement or any other agreement, document or instrument executed hereunder or in connection herewith upon which such Claim is based, the facts giving rise to an alleged basis for the Claim and, if and to the extent then known, an estimate of the amount of the liability asserted against the Indemnitor by reason of the Claim. In the event of the initiation of any legal proceeding against the Indemnified Party by a Third Party, the Indemnitor shall have the right within thirty (30) days of receipt of such notice, at its option and at its own expense, to be represented by counsel of its choice and to control, defend against, negotiate, settle (subject to this Section 11.5(b)) or otherwise deal with any such proceeding, which relates to any loss, liability or damage indemnified against hereunder; provided, however, that if the Indemnitor does not agree that it will indemnify the Indemnified Party from and against the entirety of any and all Losses the Indemnified Party may suffer from such proceeding, the Indemnified Party may participate in any such proceeding with counsel of its choice, and the Indemnifying Party shall reimburse the Indemnified Party for the

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reasonable, out-of-pocket attorneys' fees of a single law firm participating in any such proceeding. Notwithstanding the foregoing, in connection with any Claim as to which the Indemnified Party shall reasonably conclude (i) that there is a material conflict of interest between the Indemnified Party and the Indemnitor in the conduct of the defense of such Claim, (ii) there are specific defenses available to the Indemnified Party that are different from or additional to those available to the Indemnitor and that could be materially adverse to the Indemnitor, (iii) upon petition by the Indemnified Party, a court, arbitration board or administrative agency of competent jurisdiction rules that the Indemnitor failed or is failing to diligently prosecute or defend such Claim, (iv) the Claim would reasonably be likely to result in criminal penalties or material equitable relief or significant reputational harm against the Indemnified Party, and/or (v) if the Indemnified Party reasonably concludes that the Indemnitor will not be financially capable of indemnifying the Claim in its entirety, then the Indemnified Party shall have the right to conduct and control, through counsel of its choosing, the defense of such Claim and the Losses incurred by the Indemnified Party in connection with such defense or settlement (including reasonable attorneys' fees and expenses of one firm of outside counsel) shall be included in the Losses for which the Indemnified Party shall receive indemnification hereunder. The parties hereto agree to use commercially reasonable efforts to cooperate with each other in connection with the defense, negotiation or settlement of any such legal proceeding or Claim and, upon reasonable request of the other party, to make available to the other party relevant witnesses, pertinent records, materials and information in such party's possession or under such party's control relating thereto as is reasonably required by the other party and to the extent that such information does not affect any privilege of either party. To the extent the Indemnitor elects not to defend such Claim within thirty (30) days after the receipt of notice of such Claim from the Indemnified Party by delivering notice to the Indemnitor, the Indemnified Party may retain counsel at the expense of the Indemnitor, and control the defense of such proceeding; provided, however, that the Indemnitor shall be obligated pursuant to this Section 11.5(b) to pay for only one firm of counsel for all Indemnified Parties. Neither the Indemnitor nor the Indemnified Party shall settle any such proceeding which settlement obligates the other party to pay money, to perform obligations or to admit liability without the consent of the other, such consent not to be unreasonably withheld, conditioned or delayed. If the Indemnified Party shall refuse to consent to the settlement of any Third-Party Claim, so long as only money damages are involved and there is no admission of liability or wrongdoing with respect to the Indemnified Party, the liability of the Indemnitor in respect of such Third-Party Claim shall not exceed the amount for which the Third-Party Claim could have been settled plus the amount of the expenses incurred by the Indemnified Party prior to the time of and in connection with the proposed settlement to which it is entitled to indemnification. Within thirty (30) days after any final judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the time in which to appeal therefrom has expired, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall arrive at a mutually binding agreement with respect to each separate matter alleged to be indemnified by the Indemnitor hereunder, the Indemnitor shall pay all of the sums so owing to the Indemnified Party by wire transfer, certified check or bank cashier's check.

(c) This Section 11.5 (other than Section 11.5(a)), shall not apply with respect to any Third-Party Claims for or in respect of Taxes or Tax Returns.

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Section 11.6. GLI Proceedings.

(a) From and after the date hereof, Buyer shall cooperate and cause its controlled Affiliates to cooperate and use commercially reasonable efforts to direct its and their representatives to cooperate, with Seller in connection with any GLI Proceeding or any other Action relating to the Greater Lawrence Incident, including by making available to Seller employees of Buyer and its Affiliates.

(b) For the avoidance of doubt, Buyer shall not, and shall cause the Buyer Parties not to, communicate with any Governmental Body or representative thereof with respect to any GLI Proceeding without Seller Parent's prior written consent unless (i) required by applicable Requirements of Law, (ii) specifically requested by a Governmental Body or (iii) Buyer has reasonable cause to believe it may be the target of a GLI Proceeding before a Governmental Body, in which case, to the extent legally permissible, Buyer shall keep Seller Parent informed of all such communications (unless such Governmental Body specifically requests that such communications not be shared with Seller), and, to the extent practicable, in advance of such communications or if not practicable to inform Seller Parent in advance of such communications, as promptly as practicable thereafter; provided, that, Buyer shall not be required to keep Seller Parent informed of any such communications if (x) Buyer has reasonable cause to believe informing Seller Parent of such communications would cause Buyer material prejudice in connection such Governmental Body's investigation or (y) Buyer is controlling the defense of such GLI Proceeding.

(c) From and after the date hereof, subject to applicable Requirements of Law, (i) Buyer shall keep Seller Parent informed in all material respects and on a current basis of any material communication received by any Buyer Party from or given by any Buyer Party to, any Governmental Body with respect to any GLI Proceeding (unless such Governmental Body specifically requests that such communications not be shared with Seller) and (ii) Seller Parent shall have the right to review in advance, and Buyer will consult Seller Parent on, any filing made with, written materials submitted to or testimony provided by any Buyer Party to or before any Governmental Body in connection with any GLI Proceeding; provided, that, Buyer shall not be required to keep Seller Parent informed of any such communications and Seller Parent shall not have the right to review any such filings if (x) Buyer has reasonable cause to believe informing Seller Parent of such communications or providing such filings would cause Buyer material prejudice in connection such Governmental Body's investigation or (y) Buyer is controlling the defense of such GLI Proceeding.

(d) Following the Closing, Buyer shall comply with (i) all orders, directives or rules issued by, or under the direction of, any Governmental Body of competent jurisdiction with respect to the Greater Lawrence Incident, including any such order, directive or rule relating to repairs or recovery efforts arising out of or resulting from the Greater Lawrence Incident and (ii) all document preservation obligations related to the Greater Lawrence Incident in existence as of the date hereof; provided, that, Buyer shall have the right to challenge the legality of any such orders, directive, rules or obligations directed to Buyer.

(e) No Seller Party or Buyer Party shall be required to violate any Requirements of Law, Court Order or obligation of confidentiality or privacy to which such Seller Party or Buyer Party is subject or to waive any privilege which any of them may possess in discharging its obligations pursuant to this Section 11.6 (provided, that Seller and Buyer shall use all reasonable efforts, such as the entry into a joint defense agreement, to permit the discharge of such obligations without the loss of such privilege).

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(f) Notwithstanding anything to the contrary contained in this Agreement, Buyer shall not take, and shall cause its Affiliates and direct all other Buyer Parties not to take, any position that could reasonably be expected to be detrimental to Seller's conduct of any GLI Proceeding: provided, that Buyer shall not be restricted in its defense of any claim asserted against it in connection with the Greater Lawrence Incident, including any subpoena.

(g) Buyer shall cause its Affiliates and direct all other Buyer Parties to comply with the provisions of this Section 11.6 to the full extent applicable to Buyer, and Seller Parent shall cause its Affiliates and direct all other Seller Parties to comply with the provisions of this Section 11.6 to the full extent applicable to Seller Parent.

Section 11.7. Limitations.

(a) In calculating any Loss, such amounts shall be calculated net of any Third-Party insurance proceeds which have been recovered (after deducting therefrom any amount expended in pursuing or defending any claim) by the Indemnified Party under any insurance policy in connection with the facts giving rise to the right of indemnification and net of any net Tax benefits actually realized by the Indemnified Party (factoring in any Tax costs expected to be realized in connection with lost amortization or depreciation deductions expected in connection thereof) in the year of the Loss or other expenses payable with respect thereto. An Indemnified Party shall use commercially reasonable efforts to make such recoveries. In any case where an Indemnified Party recovers from any Third Party any amount in respect of a matter with respect to which an Indemnitor has indemnified it pursuant to this ARTICLE XI, such Indemnified Party shall promptly pay over to the Indemnitor the amount so recovered (after deducting therefrom the full amount of the expenses incurred by it in procuring such recovery or Taxes imposed on such recovery or on the payment over of such recovery), but not in excess of the sum of (i) any amount previously so paid by the Indemnitor to or on behalf of the Indemnified Party in respect of such matter and (ii) any amount expended by the Indemnitor in pursuing or defending any claim arising out of such matter.

(b) The right to indemnification and payment of Losses based on any inaccuracy in or breach of any representation, warranty or agreement will not be affected by any investigation conducted, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the facts as a result of which such representation, warranty or agreement was inaccurate or breached. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or obligation, will not affect the right to indemnification, payment of Losses or other remedy based on such representations, covenants and obligations.

(c) IN NO EVENT SHALL ANY PARTY BE LIABLE FOR ANY EXEMPLARY OR PUNITIVE DAMAGES, LOSS OF REVENUES OR PROFITS OR DIMINUTION OF VALUE OR ANY DAMAGES BASED ON ANY TYPE OF MULTIPLE, WHETHER ARISING UNDER ANY LEGAL OR EQUITABLE THEORY OR ARISING

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UNDER OR IN CONNECTION WITH THIS AGREEMENT, ALL OF WHICH ARE HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT ANY PARTY TO THIS AGREEMENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; PROVIDED THAT THE FOREGOING SHALL NOT (I) APPLY TO THE EXTENT SUCH DAMAGES ARE AWARDED IN CONNECTION WITH A THIRD-PARTY CLAIM OR (II) LIMIT ANY REASONABLY FORESEEABLE CONSEQUENTIAL DAMAGES SOUGHT BY AN INDEMNIFIED PARTY AS A RESULT OF ANY LOSS (SUBJECT TO THE OTHER LIMITATIONS CONTAINS IN THIS ARTICLE XI).

(d) Seller shall not be required to indemnify and hold harmless Buyer pursuant to Section 11.1(a) to the extent the matter in question was expressly taken into account in the amount of Net Working Capital as finally determined pursuant to Section 4.5(b).

(e) Except for remedies that cannot be waived as a matter of law and injunctive and provisional relief (including specific performance), if the Closing occurs, this ARTICLE XI shall be the sole and exclusive remedy for breaches of this Agreement (including any covenant, obligation, representation or warranty contained in this Agreement or in any certificate delivered pursuant to this Agreement) or otherwise in respect of the transactions contemplated hereby. The parties may not avoid the limitations on liability, recovery and recourse set forth in this ARTICLE XI by seeking damages for breach of contract, tort or pursuant to any other theory or liability. Any liability for indemnification under this Agreement shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement.

Section 11.8. Mitigation. From and after the Closing Date, each of the parties agrees to take commercially reasonable steps to mitigate their respective Losses upon and after becoming aware of any event or condition which would reasonably be expected to give rise to any Losses that are indemnifiable hereunder. This Section 11.8 shall not apply to any claims for or in respect of Taxes or Tax Returns.

ARTICLE XII TERMINATION

Section 12.1. Termination. Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Buyer and Seller Parent;

(b) by Buyer if Seller shall have breached or failed to perform any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would give rise to the failure of a condition set forth in ARTICLE IX, which breach cannot be or has not been cured by the earlier of (i) thirty (30) days after the date of receipt of written notice of breach from Buyer to Seller Parent and (ii) the Termination Date; provided, however, that Buyer shall not have the right to terminate this Agreement pursuant to this Section 12.1(b), if Buyer is then in material breach of this Agreement;

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(c) by Seller Parent if Buyer shall have breached or failed to perform any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would give rise to the failure of a condition set forth in ARTICLE X, which breach cannot be or has not been cured by the earlier of (i) thirty (30) days after the date of receipt of written notice of breach from Seller Parent to Buyer and (ii) the Termination Date; provided, however, that Seller Parent shall not have the right to terminate this Agreement pursuant to this Section 12.1(c), if Seller is then in material breach of this Agreement;

(d) by Buyer or Seller Parent if any court or other Governmental Body having jurisdiction over Buyer or Seller shall have issued a final and non-appealable order, decree or ruling permanently restraining, enjoining or otherwise prohibiting the consummation of the Closing; or

(e) by Buyer or Seller Parent if the Closing shall not have occurred on or before October 26, 2020 (the "Termination Date") (or such later date as may be agreed to in writing to Buyer and Seller Parent); provided, however, that the right to terminate this Agreement pursuant to this Section 12.1(e) shall not be available to any party whose failure to fulfill any of its obligations contained in this Agreement has been the cause of, or resulted in, the failure of the Closing to have occurred on or prior to the aforesaid dates; provided further that, if on the Termination Date the conditions set forth in Section 9.1 or Section 10.1 are the only conditions (other than those conditions that by their nature are to be satisfied at the Closing) that shall not have been satisfied or waived, then the Termination Date shall be automatically extended up to a total of two (2) times, each time by a period of forty-five (45) calendar days.

Section 12.2. Notice of Termination. Any party desiring to terminate this Agreement pursuant to Section 12.1 shall give written notice of such termination to the other party to this Agreement.

Section 12.3. Effect of Termination. If this Agreement is terminated pursuant to this ARTICLE XII, all further obligations of the parties under this Agreement shall terminate (other than this Section 12.3 (Effect of Termination), Section 8.5 (Fees and Expenses), and ARTICLE XIII (Miscellaneous), which provisions shall each survive such termination); provided, however, that nothing in this Section 12.3 shall relieve any party from any liability for a willful breach of this Agreement.

ARTICLE XIII MISCELLANEOUS

Section 13.1. Confidential Nature of Information. Each party hereto agrees that all documents, materials and other information which it shall have obtained regarding the other parties during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents shall be subject to the Confidentiality Agreement.

Section 13.2. Governing Law; Submission to Jurisdiction. All issues and questions concerning the construction, validity, interpretation and enforceability of this

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Agreement and the exhibits and schedules hereto and any claim or legal proceeding relating to or arising out of the transactions contemplated by this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. Subject to [Section 4.5](#), any action or proceeding seeking to enforce any provision of, or based on any right arising out of or otherwise relating to, this Agreement or the transactions contemplated thereby may be brought against any of the parties only in the courts of Delaware, and each of the parties hereto consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein.

Section 13.3. Waiver of Jury Trial. Each party hereby expressly waives any right to trial by jury in any dispute, whether sounding in contract, tort or otherwise, between the parties hereto arising out of or related to the transactions contemplated by this Agreement or any of the Seller Ancillary Agreements or Buyer Ancillary Agreements, or any other instrument or document executed or delivered in connection herewith or therewith. Any party hereto may file an original counterpart or a copy of this Agreement with any court as written evidence of the consent of the parties to the waiver of their right to trial by jury.

Section 13.4. Public Announcements.

(a) The initial press release issued by Seller Parent and Buyer concerning this Agreement and the transactions contemplated hereby shall be in a form agreed to by Seller Parent and Buyer, and thereafter until the Closing Date, Seller Parent and Buyer shall consult with each other before issuing, and provide each other with a reasonable opportunity to review and comment upon, any press release or otherwise making any public statements with respect to the transactions contemplated by this Agreement, except (i) to the extent required to comply with applicable Requirements of Law, court process or the New York Stock Exchange, in which case the party issuing such press release or other public statement shall, to the extent practicable and legally permitted, provide the other party with an opportunity to review and comment and (ii) any press release or other public statement that is consistent in all material respects with previous press releases, public disclosures or public statements made by a party hereto in accordance with this Agreement, in each case under this clause (ii) to the extent such disclosure is still accurate.

(b) Subject to [Section 11.6](#), Buyer shall not, and shall not permit any Buyer Parties to, make any press release or similar public announcement or public communication (or, from the date hereof until the first anniversary of the Closing Date, (x) broad-based internal announcements and broad-based communications to employees of Buyer, the Company or their respective Affiliates and (y) announcements or communications to customers of Buyer, the Company or their respective Affiliates) relating to any GLI Proceeding or any matter that is the subject of a GLI Proceeding unless specifically approved in writing in advance by Seller Parent, which approval may be withheld, conditioned or delayed in Seller Parent's sole discretion (except that a Buyer Party may make such disclosure (and only such disclosure) as required to comply with applicable Requirements of Law, judicial or regulatory process or the New York Stock Exchange; provided, however, that in such event, Buyer shall cause its Affiliates and direct all other Buyer Parties required to make the disclosure to first (i) notify Seller Parent as

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promptly as practicable in advance of such disclosure, (ii) provide Seller Parent a reasonable opportunity to review and comment on such disclosure and (iii) consider in good faith any reasonable comments provided by Seller Parent prior to dissemination or publication), in each case, to the extent practicable and legally permitted.

Section 13.5. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given (a) when delivered if delivered personally or when sent if sent by electronic mail (provided that telephonic confirmation of electronic mail transmission is obtained, as applicable), (b) upon receipt if sent by registered or certified mail (postage prepaid, return receipt requested) or (c) on the next Business Day if transmitted by nationally recognized overnight courier service, in each case as follows:

If to Buyer, to:

Eversource Energy
Prudential Tower
800 Boylston Street
Boston, MA 02199
Attention: Philip J. Lembo
Email: [***]

with a copy (which shall not constitute notice) to:

Ropes & Gray LLP
Prudential Tower
800 Boylston Street
Boston, MA 02199
Attention: Marko Zatylny and Thomas Fraser
Email: marko.zatylny@ropesgray.com; thomas.fraser@ropesgray.com

If to Seller, to:

NiSource Inc.
290 W. Nationwide Blvd.
Columbus, OH 43215
Attention: Donald Brown
Email: [***]

with a copy (which shall not constitute notice) to:

Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603
Attention: Imad I. Qasim and Beth E. Berg
Email: iqasim@sidley.com; bberg@sidley.com

or to such other address as such party may indicate by a notice delivered to the other party hereto.

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Section 13.6. Successors and Assigns; Parties in Interest. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. No party to this Agreement may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other parties to this Agreement. Notwithstanding the foregoing, to the extent expressly permitted by the MDPU Approval, at or prior to the Closing upon five days' notice to Seller, Buyer may assign its rights and interest (a) to acquire the Purchased Assets and assume the Assumed Liabilities under this Agreement to a wholly-owned direct or indirect subsidiary of Buyer without Seller's written consent, and (b) to acquire the Purchased Assets described in clause (y) of Section 2.1(a) to another wholly-owned direct or indirect subsidiary of Buyer without Seller's written consent; provided that Buyer shall cause any such assignee to remain a wholly-owned direct or indirect subsidiary of Buyer through Closing; and provided further that no such assignment shall relieve Buyer of any of its obligations or liabilities hereunder. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement. If, after the Closing, the Company liquidates or distributes or transfers all or substantially all of its Company's assets, then Seller Parent shall assume the Company's obligations under this Agreement.

Section 13.7. Access to Records and Employees after Closing.

(a) Seller and its Affiliates shall have the right to retain copies of all books and records of the Business transferred to Buyer hereunder that relate to periods ending on or prior to the Closing Date. For a period of six years after the Closing Date, Seller and its representatives shall have reasonable access to all of the books and records of the Business transferred to Buyer hereunder to the extent that such access may reasonably be required by Seller in connection with matters relating to or affected by the operations of the Business prior to the Closing Date. Such access shall be afforded by Buyer upon receipt of reasonable advance notice and during normal business hours. Seller shall be solely responsible for any costs or expenses incurred by it pursuant to this Section 13.7(a). Subject to Section 11.6(f), if Buyer shall desire to dispose of any of such books and records prior to the expiration of such six-year period, Buyer shall, prior to such disposition, give Seller a reasonable opportunity, at Seller's expense, to segregate and remove such books and records as Seller may select.

(b) For a period of six (6) years after the Closing Date, Buyer and its representatives shall have reasonable access to all of the books and records to the extent related to the Business which Seller or any of its Affiliates may retain after the Closing Date. Such access shall be afforded by Seller and its Affiliates upon receipt of reasonable advance notice and during normal business hours. Buyer shall be solely responsible for any costs and expenses incurred by it pursuant to this Section 13.7(b). If Seller or any of its Affiliates shall desire to dispose of any of such books and records prior to the expiration of such six-year period, Seller shall, prior to such disposition, give Buyer a reasonable opportunity, at Buyer's expense, to segregate and remove such books and records as Buyer may select.

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(c) Notwithstanding the foregoing provisions of this Section 13.7, neither Seller, Buyer or any of their respective Affiliates shall be required to violate any Requirements of Law, Court Order or obligation of confidentiality or privacy to which Seller, Buyer or any of their respective Affiliates is subject or to waive any privilege which any of them may possess in discharging its obligations pursuant to this Section 13.7 (provided, that each party shall use commercially reasonable efforts, such as the entry into a joint defense agreement, to permit the discharge of such obligations without the loss of such privilege).

Section 13.8. Entire Agreement; Amendments. This Agreement, the Seller Disclosure Letter, the Buyer Disclosure Letter, the Seller Ancillary Agreements, the Buyer Ancillary Agreements, the annexes, exhibits and schedules referred to herein, the documents delivered pursuant hereto and the Confidentiality Agreement contain the entire understanding of the parties hereto with regard to the subject matter contained herein or therein, and supersede all other prior representations, warranties, agreements, understandings or letters of intent between or among any of the parties hereto. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of the parties hereto.

Section 13.9. Interpretation. Articles, titles and headings to sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The annexes, schedules and exhibits referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. Any disclosure with respect to a Section of this Agreement, including any Section of the Seller Disclosure Letter, shall be deemed to be disclosed for other Sections of this Agreement, including any Section of the Seller Disclosure Letter, to which the relevance of such item is reasonably apparent on the face of such disclosure. Neither the specification of any dollar amount in any representation or warranty contained in this Agreement nor the inclusion of any specific item in any schedule hereto or in the Seller Disclosure Letter is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no party shall use the fact of the setting forth of any such amount or the inclusion of any such item in any dispute or controversy between the parties as to whether any obligation, item or matter not described herein or included in any schedule or the Seller Disclosure Letter is or is not material for purposes of this Agreement. Unless this Agreement specifically provides otherwise, neither the specification of any item or matter in any representation or warranty contained in this Agreement nor the inclusion of any specific item in any schedule hereto or in the Seller Disclosure Letter is intended to imply that such item or matter, or other items or matters, are or are not in the ordinary course of business, and no party shall use the fact of the setting forth or the inclusion of any such item or matter in any dispute or controversy between the parties as to whether any obligation, item or matter not described herein or included in any schedule hereto or in the Seller Disclosure Letter is or is not in the ordinary course of business for purposes of this Agreement.

Section 13.10. Waivers. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently authorized for the purposes of this Agreement if, as to any party, it is authorized in writing by an authorized representative of such party. The failure of any party hereto to enforce at any time any provision of this

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Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

Section 13.11. Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable Requirements of Law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable; provided, that in no event shall Buyer be required to assume an Excluded Liability.

Section 13.12. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto.

Section 13.13. Further Assurances.

(a) Upon the terms and subject to the conditions herein, each of the parties hereto agrees to use reasonable best efforts to take or cause to be taken all action, to do or cause to be done, and to assist and cooperate with the other party in doing, all things necessary, proper or advisable under applicable Requirements of Law to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement, including: (i) the satisfaction of the conditions precedent to the obligations of any of the parties hereto; (ii) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the performance of the obligations hereunder; and (iii) the execution and delivery of such instruments, and the taking of such other actions, as the other party hereto may reasonably require in order to carry out the intent of this Agreement.

(b) Subject to Section 2.2, if any Purchased Asset or Assumed Liability remains vested in or in the possession of the Company or any of its Affiliates following the Closing, the Company shall (or Seller Parent shall cause its applicable Affiliate to) transfer such Purchased Asset or Assumed Liability as soon as reasonably practicable to Buyer or its designee, and Buyer (or its designee) shall accept such Purchased Assets or assume such Assumed Liability, as the case may be, in each case, for no additional consideration. If any Excluded Asset or Excluded Liability is vested in or in the possession of Buyer or any of its Affiliates following Closing, Buyer shall (or Buyer shall cause its applicable Affiliate to) transfer such Excluded Asset or Excluded Liability as soon as reasonably practicable to the Company or its designee, and the Company (or its designee) shall accept such Excluded Assets or assume such Excluded Liability, as the case may be, in each case for no consideration.

(c) If, within twelve (12) months after the Closing Date, Buyer provides written notice to Seller Parent identifying, or Seller Parent otherwise identifies, any specific

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asset, property or right that (i) was owned by the Company or one of its Affiliates on the Closing Date, (ii) at the time that such notice is received, or identification is made by Seller Parent, continues to be owned by the Company or one of its Affiliates, (iii) did not constitute a Purchased Asset and (iv) because such asset did not constitute a Purchased Asset, the first sentence of [Section 5.12](#) was not accurate, then Seller Parent shall (or shall cause its applicable Affiliate to) use reasonable best efforts to transfer such asset as soon as reasonably practicable to Buyer or its designee, and pending such transfer, make such asset, property or right available to Buyer, for no consideration. The remedies provided to Buyer under this [Section 13.13\(c\)](#) shall not limit in any manner, or constitute a waiver by Buyer of, any obligations, rights or remedies that may be available to Buyer as a result of any breach by Seller of [Section 5.12](#).

(d) From time to time following the Closing, as and when requested by a party, the other party shall, and shall cause its Affiliates to, execute such documents and take such further actions as may be reasonably required to carry out the provisions hereof and consummate and evidence the transactions contemplated hereby, including executing and delivering or causing to be executed and delivered to such party such documents as such party or its counsel may reasonably request as necessary for such purpose.

Section 13.14. [No Buyer Shareholder Liability](#). The Declaration of Trust provides that no shareholder of Buyer shall be held to any liability whatsoever for the payment of any sum of money, or for damages or otherwise, under any contract, obligation or undertaking made, entered into or issued by the trustees of Buyer or by any officer, agent or representative elected or appointed by the trustees of Buyer and no such contract, obligation, or undertaking shall be enforceable against the trustees of Buyer or any of them in their or his individual capacities or capacity and any such contracts, obligations and undertakings shall be enforceable only against the trustees of Buyer as such, and every person, firm, association, trust and corporation having any claim or demand arising out of any such contract, obligation or undertaking shall look only to the trust estate for the payment or satisfaction thereof.

Section 13.15. [Disclaimer of Warranties](#). EXCEPT AS TO THOSE MATTERS EXPRESSLY COVERED BY THE REPRESENTATIONS AND WARRANTIES IN THIS AGREEMENT, (A) SELLER IS SELLING THE PURCHASED ASSETS ON AN "AS IS, WHERE IS" BASIS AND SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS AND GUARANTEES WHETHER EXPRESS OR IMPLIED, AND (B) SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO FITNESS, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER MAKES NO IMPLIED WARRANTIES WHATSOEVER. Buyer acknowledges and agrees that, it is not entitled to rely upon, and expressly disclaims any reliance on, any representations or warranties, other statements of fact or opinion, or other information provided by Seller or its representatives to Buyer, whether in any "data room" (virtual or otherwise), management presentation or otherwise, other than the representations and warranties expressly set forth in this Agreement.

Section 13.16. [Specific Performance](#). The parties hereto agree that irreparable damage may occur in the event that any of the terms or provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that, notwithstanding anything to the contrary contained in this Agreement, the parties

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shall be entitled, in addition to any other remedy to which any party may be entitled at law or in equity, to an injunction or injunctions or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of the U.S. or any state having jurisdiction, in each case without the requirement of posting a bond or proving actual damages (which requirements the other parties hereby waive). If on the Termination Date, there is a pending action that has been brought by a party hereto before a court of competent jurisdiction seeking the remedies provided for in this Section 13.16, then, without further action, the Termination Date shall be automatically extended until the date that is five (5) Business Days after the dismissal, settlement or entry of a final and non-appealable order with respect to such action.

Section 13.17. Legal Representation.

(a) Buyer acknowledges that each of Sidley Austin LLP ("**Sidley**") and Wilmer Cutler Pickering Hale and Dorr LLP ("**Wilmer Hale**") represents Seller.

(b) In any dispute or proceeding arising after the Closing under or in connection with this Agreement or any other agreement contemplated hereby, the parties agree that Seller shall have the right, at its election, to retain the firm of Sidley or Wilmer Hale to represent it and its Affiliates in such matter, and Buyer (on behalf of itself, its Affiliates, directors, officers, employees and representatives and their respective successors and assigns) hereby agrees to waive and consent to any such representation in any such matter.

(c) Each of the parties agrees that, as to all communications between Sidley and Wilmer Hale on the one hand, and Seller, on the other hand, the attorney-client privilege, attorney work product protection, the expectation of client confidence and all other rights to any evidentiary privilege or protection ("**Privileged Information**") belong to Seller and shall not pass to or be claimed by Buyer or any of its Affiliates following the Closing.

(d) If the transactions contemplated by this Agreement and the other agreements contemplated hereby are consummated: (i) Buyer shall have no right of access to or control over any of Sidley's or Wilmer Hale's records related to such transactions; and (ii) because it would be impracticable to remove from the records (including emails and other electronic files) of the Business all Privileged Information, Buyer agrees, and agrees to cause its Affiliates to agree, not to use, examine or rely upon such Privileged Information that may remain in the records of the Business, and the parties agree that no attorney-client privilege, attorney work product or other applicable evidentiary privilege or protection is waived or intended to be waived by allowing such material to remain in the files of the Business.

(e) Effective as of the Closing, Buyer hereby waives and agrees not to assert, and Buyer agrees to cause its Affiliates and direct each of the other Buyer Parties to waive and not to assert, any conflict of interest arising out of or relating to any representation after the Closing of any Seller Party in any matter involving the Greater Lawrence Incident, by Sidley, Wilmer Hale or any other legal counsel representing any Seller Party prior to the Closing in connection with any pending or potential GLI Proceeding.

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Section 13.18. Non-Recourse. No past, present or future director, officer, employee, incorporator, member, partner, stockholder, Affiliate, agent, attorney or representative of Seller or its Affiliates shall have any liability for any obligations or liabilities of Seller under this Agreement or the Seller Ancillary Agreements of or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and thereby.

[Remainder of page intentionally left blank; signature page follows.]

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3/5/2020

EX-2.1

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

EVERSOURCE ENERGY

By: /s/ Philip J. Lembo
Name: Philip J. Lembo
Title: Executive Vice President and Chief
Financial Officer

NISOURCE INC.

By: /s/ Joseph Hamrock
Name: Joseph Hamrock
Title: President and Chief Executive Officer

BAY STATE GAS COMPANY

By: /s/ Donald E. Brown
Name: Donald E. Brown
Title: Executive Vice President and Chief
Financial Officer

[Asset Purchase Agreement]

Resolutions Approved by the
NiSource Inc. Board of Directors
February 25, 2020

WHEREAS, there has been presented to the board of directors (the “**Board**”) of NiSource Inc. (“**Parent**”) a summary of the key terms of an Asset Purchase Agreement (the “**Purchase Agreement**”), by and among Parent, Bay State Gas Company d/b/a Columbia Gas of Massachusetts, an indirect wholly-owned subsidiary of Parent (the “**Company**”), and Eversource Energy, a Massachusetts voluntary association (“**Buyer**”);

WHEREAS, over the course of previous meetings, the Board has discussed, considered and evaluated a potential sale of the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by the Company (the “**Business**”);

WHEREAS, the Purchase Agreement provides for, among other things, the sale to Buyer by the Company of substantially all of its assets, and the assumption by Buyer of certain liabilities of the Company, as well as the sale by affiliates of the Company of all assets primarily related to the Business and certain assets to the extent related to the Business, all upon the terms and subject to the conditions set forth in the Purchase Agreement; and

WHEREAS, the Purchase Agreement contemplates a purchase price of \$1,100,000,000 in cash (the “**Base Purchase Price**”), subject to adjustment in accordance with the Purchase Agreement.

PURCHASE AGREEMENT

NOW, THEREFORE, BE IT RESOLVED, that the Board has determined that, on the terms and subject to the conditions set forth in the Purchase Agreement, the entry into the Purchase Agreement and the consummation of the transactions contemplated thereby is in the best interests of Parent and its stockholders;

FURTHER RESOLVED, that the Board hereby approves and adopts the Purchase Agreement, on substantially the terms presented to the Board, with such changes therein and additions thereto as Parent’s Chief Executive Officer, Parent’s Chief Financial Officer, Parent’s Chief Legal Officer or any other officer of Parent designated by any of the foregoing officers (each, an “**Authorized Officer**” and collectively, the “**Authorized Officers**”) may deem necessary or advisable, such determination to be conclusively evidenced by such Authorized Officer’s execution thereof (the Purchase Agreement with such changes and additions, the “**APA**”);

FURTHER RESOLVED, that the execution, delivery and performance of the APA and each of the Seller Ancillary Agreements (as defined in the APA) to which Parent is a party and the consummation by Parent of the transactions contemplated by the APA and the

Seller Ancillary Agreements (collectively, the “*Contemplated Transactions*”), on the terms and subject to the conditions set forth in the APA be, and they hereby are, authorized and approved; and

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to execute and deliver, in the name and on behalf of Parent, the APA, any amendment to the APA (other than an amendment that would reduce the Base Purchase Price), each Seller Ancillary Agreement to which Parent is a party and any other agreement, document or instrument referred to in the APA or otherwise related thereto as the Authorized Officer executing the same may deem necessary or advisable, such determination to be conclusively evidenced by such Authorized Officer’s execution thereof.

REGULATORY AND OTHER FILINGS

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to prepare, execute and deliver, in the name and on behalf of Parent, and file with any applicable federal, state, local or foreign executive, legislative, regulatory or supervisory body, as and to the extent required, applicable or advisable, all applications, notices, requests for approval, reports, schedules, statements, consents, instruments, certificates, agreements and other information and documents, and any modifications or supplements thereto, as may be necessary or advisable, with respect to the APA and the Contemplated Transactions, including any such filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or with the Massachusetts Department of Public Utilities, and to take all other actions that such Authorized Officer or Authorized Officers may deem necessary or advisable to comply with applicable laws and regulations of any jurisdiction or which such Authorized Officer or Authorized Officers may otherwise deem necessary or advisable to effect the Contemplated Transactions.

GENERAL AUTHORITY

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of Parent, to engage any legal counsel, appraisal firms or other advisors, consultants or experts as such Authorized Officers, or any of them, may deem necessary or advisable in connection with the APA and the Contemplated Transactions and to execute and deliver any agreements to reflect the engagement of such counsel, firms, and advisors, consultants or experts, on such terms and conditions as the executing Authorized Officer shall approve, such engagement and approval to be conclusively evidenced by such Authorized Officer’s execution thereof;

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of Parent, to pay any and all investment banking, accounting, legal, appraisal, consulting, public relations, filing and other fees and expenses incurred by Parent in connection with the APA and the Contemplated Transactions;

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to make all such arrangements, to do and perform

all such acts and things, to execute and deliver all such certificates, agreements, instruments and documents and to pay all such amounts, in the name and on behalf of Parent, as such Authorized Officers, or any of them, may deem necessary or advisable in order fully to effectuate the purposes of the preceding resolutions and the provisions of the APA;

FURTHER RESOLVED, that the officers of Parent be, and each of them hereby is, authorized and empowered, in the name and on behalf of Parent, to take or cause to be taken all such further actions, to execute and deliver or cause to be executed and delivered all such further certificates, agreements, instruments and documents, to make or cause to be made all such additional filings with governmental or regulatory authorities and to pay or cause to be paid all such additional fees and expenses, in each case, which shall in such officer's or officers' judgment be deemed necessary or advisable to effect and carry out the intent of the foregoing resolutions and the provisions of the APA, such determination to be evidenced conclusively by such officer's or officers' execution and delivery thereof or taking of action in respect thereto; and

FURTHER RESOLVED, that any and all actions heretofore or hereafter taken by any director, officer, employee or agent of Parent consistent with and in furtherance of the foregoing resolutions be, and they hereby are, authorized, ratified, confirmed and approved in all respects.

**WRITTEN CONSENT OF
THE BOARD OF DIRECTORS OF BAY STATE GAS COMPANY**

Dated as of February 26, 2020

The undersigned, being all of the members of the board of directors (the "**Board**") of Bay State Gas Company (the "**Company**"), do hereby waive all notice of the time, place and purpose of a meeting and consent and agree to the adoption of the following resolutions pursuant to the applicable laws of the Commonwealth of Massachusetts in lieu of holding a special meeting:

WHEREAS, there has been presented to the Board a draft of an Asset Purchase Agreement (the "**Purchase Agreement**"), by and among the Company, NiSource, Inc., a Delaware corporation and the ultimate indirect parent of the Company, and Eversource Energy, a Massachusetts voluntary association ("**Buyer**"), and a summary of the Purchase Agreement;

WHEREAS, the Board has considered and evaluated a potential sale of the business of storing, distributing or transporting natural gas to residential, commercial and industrial customers in Massachusetts, as conducted by the Company (the "**Business**");

WHEREAS, the Purchase Agreement provides for, among other things, the sale to Buyer by the Company of substantially all of its assets, and the assumption by Buyer of certain liabilities of the Company, as well as the sale by affiliates of the Company of all assets primarily related to the Business and certain assets to the extent related to the Business, all upon the terms and subject to the conditions set forth in the Purchase Agreement;

WHEREAS, the Purchase Agreement contemplates a purchase price of \$1,100,000,000 in cash (the "**Base Purchase Price**"), subject to adjustment in accordance with the Purchase Agreement; and

WHEREAS, the Board has determined that the Contemplated Transactions (as defined below) constitute a disposition of substantially all of the property of the Company other than in the usual and regular course of business.

PURCHASE AGREEMENT

NOW, THEREFORE, BE IT RESOLVED, that the Board has determined that, on the terms and subject to the conditions set forth in the Purchase Agreement, the entry into the Purchase Agreement and the consummation of the transactions contemplated thereby is in the best interests of the Company and its shareholder;

FURTHER RESOLVED, that the Board hereby approves and adopts the Purchase Agreement, on substantially the terms presented to the Board, with such changes therein and additions thereto as the Company's Chief Executive Officer, President or Chief Operating Officer (each, an "**Authorized Officer**" and collectively, the "**Authorized Officers**") may deem necessary

or advisable, such determination to be conclusively evidenced by such Authorized Officer's execution thereof;

FURTHER RESOLVED, that the execution, delivery and performance of the Purchase Agreement and each of the Seller Ancillary Agreements (as defined in the Purchase Agreement) to which the Company is a party and, subject to the approval of the sole shareholder of the Company, the consummation by the Company of the transactions contemplated by the Purchase Agreement and the Seller Ancillary Agreements (collectively, the "**Contemplated Transactions**"), on the terms and subject to the conditions set forth in the Purchase Agreement be, and they hereby are, authorized and approved;

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to execute and deliver, in the name and on behalf of the Company, the Purchase Agreement, any amendment to the Purchase Agreement (other than an amendment that would reduce the Base Purchase Price), each Seller Ancillary Agreement to which the Company is a party and any other agreement, document or instrument referred to in the Purchase Agreement or otherwise related thereto as the Authorized Officer executing the same may deem necessary or advisable, such determination to be conclusively evidenced by such Authorized Officer's execution thereof;

FURTHER RESOLVED, that the Board proposes and recommends that the Contemplated Transactions be approved by the sole shareholder of the Company; and

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to, unless waived in writing by the sole shareholder of the Company, notify the shareholder of a shareholder meeting to approve the Contemplated Transactions, which notice shall state that the purpose of the meeting is to consider the sale, lease, exchange or other disposition, as the case may be, of all, or substantially all of, the property of the Company otherwise than in the usual and regular course of business, and which notice shall contain or be accompanied by a description of the Contemplated Transactions.

REGULATORY AND OTHER FILINGS

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to prepare, execute and deliver, in the name and on behalf of the Company, and file with any applicable federal, state, local or foreign executive, legislative, regulatory or supervisory body, as and to the extent required, applicable or advisable, all applications, notices, requests for approval, reports, schedules, statements, consents, instruments, certificates, agreements and other information and documents, and any modifications or supplements thereto, as may be necessary or advisable, with respect to the Purchase Agreement and the Contemplated Transactions, including any such filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or with the Massachusetts Department of Public Utilities, and to take all other actions that such Authorized Officer or Authorized Officers may deem necessary or advisable to comply with applicable laws and regulations of any jurisdiction or which such Authorized Officer or Authorized Officers may otherwise deem necessary or advisable to effect the Contemplated Transactions.

GENERAL AUTHORITY

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of the Company, to engage any legal counsel, appraisal firms or other advisors, consultants or experts as such Authorized Officers, or any of them, may deem necessary or advisable in connection with the Purchase Agreement and the Contemplated Transactions and to execute and deliver any agreements to reflect the engagement of such counsel, firms, and advisors, consultants or experts, on such terms and conditions as the executing Authorized Officer shall approve, such engagement and approval to be conclusively evidenced by such Authorized Officer's execution thereof;

FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of the Company, to pay any and all investment banking, accounting, legal, appraisal, consulting, public relations, filing and other fees and expenses incurred by the Company in connection with the Purchase Agreement and the Contemplated Transactions;


FURTHER RESOLVED, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed to make all such arrangements, to do and perform all such acts and things, to execute and deliver all such certificates, agreements, instruments and documents and to pay all such amounts, in the name and on behalf of the Company, as such Authorized Officers, or any of them, may deem necessary or advisable in order fully to effectuate the purposes of the preceding resolutions and the provisions of the Purchase Agreement;

FURTHER RESOLVED, that the officers of the Company be, and each of them hereby is, authorized and empowered, in the name and on behalf of the Company, to take or cause to be taken all such further actions, to execute and deliver or cause to be executed and delivered all such further certificates, agreements, instruments and documents, to make or cause to be made all such additional filings with governmental or regulatory authorities and to pay or cause to be paid all such additional fees and expenses, in each case, which shall in such officer's or officers' judgment be deemed necessary or advisable to effect and carry out the intent of the foregoing resolutions and the provisions of the Purchase Agreement, such determination to be evidenced conclusively by such officer's or officers' execution and delivery thereof or taking of action in respect thereto; and

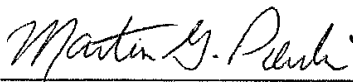
FURTHER RESOLVED, that any and all actions heretofore or hereafter taken by any director, officer, employee or agent of the Company consistent with and in furtherance of the foregoing resolutions be, and they hereby are, authorized, ratified, confirmed and approved in all respects.

* * * * *

IN WITNESS WHEREOF, the undersigned have executed this written consent as of the date first written above.



Mark Kempic



Martin G. Poulin

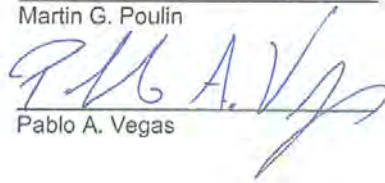
Pablo A. Vegas

Written Consent of the Board of Directors of Bay State Gas Company

IN WITNESS WHEREOF, the undersigned have executed this written consent as of the date first written above.

Mark Kempic

Martin G. Poulin


Pablo A. Vegas

Written Consent of the Board of Directors of Bay State Gas Company