

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-69

August 24, 2020

Petition of Investigation by the Department of Public Utilities on its own Motion into the Modernization of the Electric Grid – Phase Two.

ORDER ON ATTORNEY GENERAL'S NOTICE OF RETENTION
OF EXPERTS AND CONSULTANTS

I. INTRODUCTION

On July 2, 2020, the Department of Public Utilities (“Department”) voted to open the second phase of its grid modernization investigation to consider the next appropriate steps for deployment of advanced metering functionality in the Commonwealth. Modernization of the Electric Grid – Phase II, D.P.U. 20-69 (2020). The Department docketed this matter as D.P.U. 20-69.

On July 27, 2020, the Attorney General of the Commonwealth of Massachusetts (“Attorney General”) filed a notice of intervention pursuant to G.L. c. 12, § 11E(a). The Attorney General has determined that it is necessary and appropriate for her to retain one or more experts or consultants to assist her in this proceeding and on July 27, 2020, the Attorney General filed with the Department a notice of retention of experts and consultants in this matter, pursuant to G.L. c. 12, § 11E(b) (“Attorney General Notice”).

On August 13, 2020, the Department sought comments on the Attorney General Notice from the parties in Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, D.P.U. 15-120, Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 15-121, and NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-122. No comments were received by the Department.¹

¹ Pursuant to G.L. c. 12, § 11E(b), the Department must provide full parties an opportunity to comment regarding the necessity or desirability of the Attorney General’s use of experts and consultants. As this proceeding is a Department-initiated investigation, there are no full party intervenors. Nevertheless, the Department provided notice and an opportunity to comment regarding the necessity or desirability

II. ATTORNEY GENERAL'S NOTICE OF RETENTION OF EXPERTS AND CONSULTANTS

The Attorney General states that, pursuant to the Department's Vote and Order, the instant proceeding will inform the customer-facing investments that the electric distribution companies will incorporate into their future grid modernization investment plans through an investigation of relevant issues, including (1) the targeted deployment of advanced metering infrastructure ("AMI") to electric vehicle customers; (2) cost-effective advanced metering technology other than AMI; (3) time variable rate designs; (4) the status, constraints, and flexibility of the electric distribution companies' metering, data management, communications, and billing systems as they relate to incorporating advanced metering functionality; (5) alternative solutions; and (6) stranded costs (Attorney General Notice at 4, citing D.P.U. 20-69, at 6-8). The Attorney General states that to satisfy her statutory obligation and better ensure an outcome in this proceeding that is in the best interests of ratepayers, the Attorney General's Office must engage consultants with the expertise to review and analyze the material filed in response to the Department's Vote and Order, and to assist the Attorney General's Office in preparing its own filings and in propounding discovery (Attorney General Notice at 4). The Attorney General maintains that the Department has recognized the Attorney General's prerogative to obtain experts and consultants pursuant to G.L. c. 12, § 11E(b), including in general proceedings initiated by the Department to review

of the Attorney General's use of experts and consultants to the parties to in the companies' initial grid modernization plan filings.

Department standards and guidelines for utilities (Attorney General Notice at 3, citing Service Quality Guidelines, D.P.U. 12-120-A at 3-5 (2013)).

The Attorney General states that she cannot predict with precision the total cost for its experts and consultants, however, she anticipates that the expenses for these services in connection with the Department's investigation will not exceed the statutory threshold of \$150,000 set forth in G.L. c. 12, §11E(b) (Attorney General Notice at 4). The Attorney General states that if she later anticipates that its expert and consulting expenditures in this docket will exceed the \$150,000 threshold, the Attorney General will make the necessary showing to the Department of the exigent circumstances that necessitate such additional spending pursuant to G.L. c. 12, § 11E(b) (Attorney General Notice at 4-5).

Further, the Attorney General's Office requests that, consistent with prior orders, the Department apportion the expert and consultants' costs among the electric distribution companies, based on each company's intrastate operating revenues as reported to the Department in its respective annual return (Attorney General Notice at 5, citing Joint Petition of the Electric Distribution Companies for Approval of Model Solar Massachusetts Renewable Target Tariff pursuant to An Act Relative to Solar Energy St. 2016, c. 75, § 11(b), 225 CMR 20.00, D.P.U. 17-140, at 5 (2017)).

The Attorney General further submits that in implementing the provisions of G.L. c. 12, § 11E(b), she will take several steps to ensure that expert services are procured and managed in the most cost-effective and efficient manner (Attorney General Notice at 5). Specifically, the Attorney General represents that she will execute expert services contracts

with not-to-exceed, maximum obligation provisions to ensure that costs for these services are controlled (Attorney General Notice at 5). In addition, the Attorney General states that all contractors performing work in this proceeding will be subject to the Commonwealth's standard contract terms and conditions (albeit payable under the specific terms of G.L. c. 12, § 11E(b)) and that all invoices will be reviewed by the Attorney General's office prior to being submitted for payment to ensure accuracy and compliance with the terms of the contract (Attorney General Notice at 5). The Attorney General maintains that through these processes, she will make every effort to ensure that the proposed use of funds under G.L. c. 12, § 11E(b) will be necessary to participate in the proceeding to protect customers (Attorney General Notice at 5).

III. ANALYSIS AND FINDINGS

Under G.L. c. 12, § 11E(b), the Attorney General may retain an expert or a consultant to assist in representing consumer interests in Department proceedings involving rates, charges, prices, and tariffs of an electric company, water company, gas company, or generator or transmission company subject to the jurisdiction of the Department. The Attorney General must file with the Department a notice that indicates the type of expert or consultant to be retained and the anticipated cost. G.L. c. 12, § 11E(b). The Department must allow all full parties to a proceeding the opportunity to comment on such notice. G.L. c. 12, § 11E(b). Absent a showing that the costs are unnecessary for the Attorney General to represent ratepayer interests in the proceeding or that such costs are not reasonable or proper, the Department must approve the use of an expert or consultant.

G.L. c. 12, § 11E(b). The cost of retaining an expert or consultant cannot exceed \$150,000 per proceeding unless a greater amount is approved by the Department based upon exigent circumstances. G.L. c. 12, § 11E(b). All reasonable and proper expenses for such expert or consultant are to be borne by the affected company and are recoverable through the company's rates. G.L. c. 12, § 11E(b).

In the instant proceeding, the Attorney General has determined that she requires up to \$150,000 to obtain expert and consultant assistance in her review of the materials filed in response to the Department's Vote and Order and to assist in preparing the Attorney General's own filings and in propounding discovery (Attorney General Notice at 5). After review, the Department finds that the Attorney General's examination of the issues identified in the Department's Vote and Order is reasonably necessary to carry out her statutory authority to represent consumer interests in this proceeding. In addition, based on the information provided in the Attorney General Notice, the Department finds that the costs to retain experts and consultants appear to be reasonable and proper for the exercise of the Attorney General's authority. Accordingly, after review and consideration, the Department approves the Attorney General's use of experts and consultants in this proceeding, the costs not to exceed \$150,000 unless otherwise ordered by the Department.² Any expert and consultant costs incurred by the Attorney General in this proceeding shall be apportioned

² The Attorney General shall file a request for approval of any costs exceeding \$150,000, consistent with the requirements of G.L. c. 12, § 11E(b).

among the electric distribution companies based on each company's intrastate operating revenues as set forth in the General Assessment of the Department of Public Utilities pursuant to G.L. c. 25, § 18 for the applicable year (currently, General Assessment For Fiscal Year 2020, D.P.U. 20-ASMT-01 (March 20, 2020)). Investigation into Standard of Review and Filing Requirements for Gas Special Contracts, D.P.U. 18-152, at 5 (2019); D.P.U. 17-140, at 5; Investigation into Margin Sharing, D.P.U. 10-62-A at 8-9 (2013).³

IV. ORDER

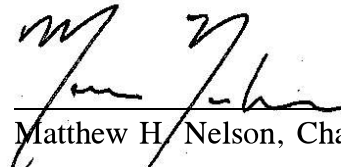
Accordingly, after review and consideration, it is

ORDERED: That the notice of the Attorney General of the Commonwealth of Massachusetts to retain experts or consultants at a cost not to exceed \$150,000 is APPROVED; and it is


³ Any expert and consultant costs associated with this proceeding that the Attorney General incurs following the Department's issuance of subsequent assessment orders shall be apportioned among the electric distribution companies based on each company's intrastate operating revenues as set forth in the subsequent orders.

FURTHER ORDERED: That the Attorney General of the Commonwealth of Massachusetts, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, Fitchburg Gas and Electric Light Company d/b/a Unitil, and NSTAR Electric Company d/b/a Eversource Energy shall comply with all other directives contained in this Order.

By Order of the Department,


Matthew H. Nelson, Chair


Robert E. Hayden, Commissioner


Cecile M. Fraser, Commissioner