



November 24, 2020

VIA ELECTRONIC DELIVERY

Mark D. Marini, Secretary
Massachusetts Department of Public Utilities
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Re: D.P.U. 20-80 – Response of Environmental Defense Fund to The Office of the Attorney General’s Motion for Clarification

Dear Secretary Marini:

Environmental Defense Fund (“EDF”) appreciates the opportunity to submit the following response to the Massachusetts Department of Public Utilities (“Department”) in the above referenced docket.

I. Introduction

On June 4, 2020, the Attorney General of the Commonwealth of Massachusetts (“Attorney General”) filed a petition requesting that the Department open an investigation to assess the future of Local Distribution Companies’ (“LDCs”) operations and planning in light of the Commonwealth’s target of net-zero GHG emissions by 2050. On October 29, 2020, the Department issued an Order opening an Investigation and directing each LDC to submit a proposal that includes the recommendations and plans for helping the Commonwealth achieve its 2050 climate goals (“Order”). Thereafter, on November 6, 2020, the Attorney General filed a Motion for Clarification regarding the Order (“Motion”). On November 18, 2020, the Hearing Officer issued a memorandum establishing December 1, 2020 as the deadline to file responses to the Motion.

II. Comments

To facilitate joint problem solving and to ensure a robust record upon which to make a decision, the Department should provide clarification with respect to stakeholder participation in the above-referenced docket, as requested by the Attorney General. Here, EDF presents additional comments regarding stakeholder participation and the scope of the proceeding.

A. The Department Should Provide Clarification to help Ensure Meaningful Stakeholder Engagement

As stated in the Attorney General’s Motion, the Order is unclear regarding which stakeholders the LDCs should ask to participate in the development of the consultant report (“Report”) and the utilities’ proposals (“Proposals”). Motion at 4, fnt. 2. The Order points out that “the future of the natural gas industry has been a topic of interest for many stakeholders.” Order at 1. Further, the Order states that the proceeding will guide the evolution of the gas distribution industry in terms of the industry’s contributions in helping the Commonwealth achieve its climate goals. Order at 1. The importance of this proceeding cannot be overstated and will require a focus and analysis different from that of “traditional” gas proceedings, as other first-acting state commissions have recognized.¹

EDF recognizes that it may be difficult at this point in time for the Department to determine all of the stakeholders who may be interested in this proceeding. Arguably, to enumerate a specific list of stakeholders at this stage may have the undesirable effect of excluding important voices at a later stage. For example, there may be additional stakeholder interest after the release of the Executive Office of Energy and Environmental Affairs’ 2050 Decarbonization Roadmap and the 2030 Clean Energy and Climate Plan scheduled for later this year. The Department should therefore define parameters that maximize broad and inclusive stakeholder participation in this case.

The Order directs the LDCs to submit two status updates, one on or before March 1, 2021 and the other on or before September 1, 2021. Order at 6. The Order also directs the LDCs to engage in a stakeholder process “to solicit feedback and advice” before the LDCs submit the Report and Proposals to the Department on or before March 1, 2022. Order at 6. Based on this schedule and without further clarification from the Department, stakeholders may not have an opportunity to engage with the LDCs until after both the Report and the Proposals have been completed which could be over a year from now. While EDF looks forward to the opportunity of providing such feedback, EDF suggests that there may also be a significant benefit in allowing for stakeholder input at earlier stages of this proceeding as well. Specifically, the Department could direct the LDCs to confirm in their status updates that their consultants have reviewed and

¹ *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Order Instituting Proceeding, New York Public Service Commission, Case 20-G-0131 at page 3 (March 20, 2020) (“the public interest demands that gas utilities provide information to and communicate with the Department, with other government entities and agencies, and with stakeholders, so as to promote effective planning and best consideration of alternatives, thus benefiting costs, emissions, and economic development.”); *Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning*, Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning, California Public Utilities Commission, R20-01-007 (January 16, 2020) (setting forth a procedural schedule with multiple comment opportunities and workshops and providing for intervenor compensation).

considered any input provided by stakeholders. This may help to facilitate the engagement that the LDCs will have with the stakeholders about the Report and Proposals before they are filed with the Department.

B. The Department Should Provide a Pathway for Consideration of Changes to Existing Planning Processes, Business Models, and Regulatory Structures that May Serve to Hinder Climate Goal Compliance

The Department’s action in this proceeding is an important first step in placing the LDCs it regulates on a promising pathway towards climate goal compliance. The Order acknowledges that the energy “transition requires the Department to consider new policies and structures that would protect ratepayers as the Commonwealth reduces its reliance on natural gas, and it may require LDCs to make significant changes to their planning processes and business models.” Order at 2. As this proceeding has been framed, however, it is unclear how and when review of planning processes, business models, and regulatory policies and structures will take place. The Department has directed that the independent consultant will assess: (1) costs and GHG emission reductions involved in the transitioning of the natural gas system; (2) qualitative factors such as public safety, economic development, and equity; and (3) recommendations to reduce GHG emissions with specific initiatives, actions, and interim milestones. Order at pages 5-6. LDCs must then submit a proposal that includes recommendations and plans for helping the Commonwealth achieve its 2050 climate goals. While these actions will likely provide information critical to the Department’s task here, they do not appear to be sufficient to address potential changes that may be needed to planning processes, business models, or other regulatory structures in light of this new future.

There is also an immediate need to address existing—and in most instances outdated—policies, programs, and processes that lead to continued, and often unchecked, investments in the gas system today. These policies, programs, and processes determine how much gas is perceived to be needed for the system, how much new and existing infrastructure is required to supply that gas, which resources will meet those needs, and who will bear the costs of those resources.² Revisiting and refining these existing policies in the context of the current climate goals is a foundational step to decarbonization and could occur simultaneously with the process already set forth by the Department.

² Existing processes continue to assume year-over-year gas sendout and encourage gas expansion. *See, e.g.,* Boston Gas Company/Colonial Gas Company d/b/a National Grid; D.P.U. 18-148 November 1, 2018 through October 31, 2023 Long-Range Resource and Requirements Plan at page 5 (November 1, 2018) (“National Grid projects incremental sendout to traditional markets of 8,527 BBtus over the forecast period or 2,132 BBtus per year (assuming normal weather) (see Chart III-A-1, Base Case). Overall, this growth represents a 7.1 percent total increase in sendout requirements over the forecast period, or 1.7 percent per year on average.”); Order on Petition of NSTAR Gas Company d/b/a Eversource Energy for Approval of a Natural Gas Customer Expansion Pilot Program at page 17 (February 10, 2017).

As other state commissions have done, the Department could address these issues on multiple, or even parallel tracks. For instance, in initiating a review of its gas planning procedures, the New York Public Service Commission directed its Staff to submit a proposal “for a modernized gas planning process that is comprehensive, suited to the forward-looking system and policy needs, designed to minimize total lifetime costs, and inclusive of stakeholders.”³ The California Public Utilities Commission opened a multi-track proceeding to update reliability standards, determine regulatory changes to improve the coordination between gas utilities and gas-fired electric generators, and implement a long-term strategy to manage the state’s transition away from fossil gas.⁴ These are just two examples of the types of inquiries the Department could require in order to gather the necessary information it needs to act on these critical matters and resolve the pressing disconnect between existing gas policies, programs, and processes and the Commonwealth’s ambitious climate goals.

III. Conclusion

Wherefore, the Environmental Defense Fund respectfully requests that the Department consider the Attorney General’s Motion and provide a process for meaningful stakeholder involvement, inclusive of the issues described above.

Dated: November 24, 2020

Respectfully submitted,

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³ *Proceeding on Motion of the Commission in Regard to Gas Planning Procedures*, Order Instituting Proceeding, New York Public Service Commission, Case 20-G-0131 at page 7 (March 20, 2020).

⁴ *Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning*, Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning, California Public Utilities Commission, R20-01-007 at page 2 (January 16, 2020).