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Written Testimony of Attorney General Martha Coakley
Joint Committee on Telecommunications, Utilities and Energy
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Good afternoon Chairman Finegold, Chairman Morrissey and members of the Joint Committee on Telecommunications, Utilities and Energy. I thank the Committee for the opportunity to provide testimony here today. Joining me is Jed Nosal, Chief of the Energy and Telecommunications Division within our office.

I am here today on behalf of utility consumers, as their Ratepayer Advocate. Among my duties as Attorney General is the responsibility of representing the interests of all Massachusetts' ratepayers, in matters involving utility rates and service quality. As the Ratepayer Advocate for the Commonwealth, our office intervenes in administrative, regulatory and judicial proceedings on behalf of consumers regarding a variety of matters involving electric, gas, and telephone rates, in proceedings before the Department of Public Utilities ("DPU") and the Department of Telecommunications and Cable ("DTC"). In addition, as Ratepayer Advocate, our office participates in proceedings before FERC, the Federal Energy Regulatory Commission.

Today's hearing is on several pieces of legislation aimed at addressing utility planning, response and accountability in connection with weather or other events that

interrupt utility service. After the December ice storm, over 375,000 electric customers in Massachusetts were without power, and many without heat for long periods of time. While the storm impacted customers across the state, the customers served by Unitil in Lunenburg, Fitchburg, Ashby and Townsend were hit particularly hard and suffered through the longest period without utility service. During the storm, some 28,000 Massachusetts homes in Unitil's service territory, or virtually 100% of its Massachusetts customers, lost power. One in five of those customers were reportedly without power for at least a week, while over 1,000 homes had no electricity for 12 days or more.

Our office received many customer complaints related to the storm similar to those that were expressed in public hearings held in Fitchburg and Lunenburg this past January, where hundreds of citizens offered a first hand account of the storm's devastation and Unitil's response. Consumer concern and complaints ranged in severity and cut across many demographics. Many residents were forced from homes and forced to live with relatives, or in shelters and hotels. Others stayed in their homes and suffered significant discomfort. Residents have lost wages because they were forced to miss work and suffered losses because of lost groceries and many spent significant funds on generators and in repairing their homes.

Our office heard from Antoinetta Atkinson of Fitchburg, a senior citizen, who had no power for 8 days and was without heat, food or water. John and Barbara Sulin of Fitchburg were without power for 14 days and also complain of regular outages throughout the year. Brian Fitzpatrick of Lunenburg contacted us when he was on his 11th day without power due to the storm and he had not seen Unitil trucks or had communication from the company despite numerous calls. Mr. Fitzpatrick lost $200

worth of food, spent $250 on hotel rooms before sending his family to stay with relatives in New York and spent more than $900 dollars for a generator and fuel to protect his home from freezing conditions.

As a result of these citizen complaints as well as concerns raised by Governor Patrick and my office, the Department of Public Utilities has launched a full investigation into this matter. We have pushed to ensure that the investigation involves not only Unitil but also looks at the other utilities' response to the storm. In addition to the public hearings, this process will involve discovery, evidentiary hearings where witnesses may be cross examined as well as briefing where parties in the proceedings will make recommendations to the Department on appropriate remedies. Currently, our office is representing the interests of Unitil and other customers in the ongoing proceedings before the Department. In representing the interests of Unitil customers, our office has concentrated on several areas:

1) **Emergency Planning** - What emergency response plans, training and other preparation did Unitil have in place prior to the storm? Are Unitil's emergency response plans adequate, and were they implemented, or not, in this case?
2) **Prioritization and Restoration** - How does Unitil prioritize what parts of its distribution system and which customers are returned to service first? Is the sequencing logical, and does it take into account real conditions when the decisions are made?
3) **Communications** – There has been widespread agreement that Unitil's communication systems failed and we expect to spend significant time reviewing this failure. In particular:

- We want to understand how the Company communicated with customers, including identifying and acting on loss of service from customers' calls, and estimating return of their service;

- We want to understand how the Company communicated with emergency response personnel and essential life support organizations or people, in each city and town affected, and with state and national resources, such as the State Police, the National Guard, MEMA, and people at home under critical medical care;

- We want to understand how the Company communicated with other governmental authorities and agencies, including the Governor and staff, affected town and city governments, and the Massachusetts Department;

- We want to understand how the Company communicated with major media since, in many cases, that was the only information outlet available to customers; and

- We want to understand how the Company communicated and coordinated with other utilities for mutual aid, and with private contractors and vendors to get additional crews from outside of Unitil's service area, and to get additional equipment and supplies as needed.

4) **Ongoing Maintenance** – Reports have indicated that Unitil has failed to adequately maintain its system. What is the overall state of Unitil's distribution infrastructure and did its age or condition contribute to the number of outages or the ability to restore power? Are the Company's ongoing operation and maintenance programs and staffing adequate or have they suffered from cuts?

5) **Tree trimming** – It has been speculated that one of the reasons that restoration took so long is Unitil has failed to adequately undertake tree trimming in its service territory. What are Unitil's practices concerning tree trimming and other vegetation management? Are their practices adequate for this region and the Company's particular territory, as well as consistent with other utilities' programs?

6) **Lessons Learned -** Though the December 12th event was severe, an event like this should have been anticipated and prepared for. Unitil should have looked at the lessons from the 1998 ice storm in Maine and the 1996 storm in Western Massachusetts Electric's service territory. If Unitil did not study those storm recovery restoration investigations, and apply lessons learned, we want to know why.

Expert testimony provided to our office has shown that Unitil's performance during the December 2008 ice storm, reflected a lack of investment in modern Outage Management Systems, a lack of accurate and timely communications with its customers about restoration activities and estimates, and an inability to properly organize the massive influx of assistance required to accomplish a reasonably timed restoration, as well as a lack of communication with municipal and other state and local officials. [Direct Testimony of Barbara R. Alexander, Docket No. D.P.U. 09-01-A, pgs.6-8]. Furthermore, our experts concluded that Unitil sent "vague and contradictory messages to the public and its customers" and that those communications "repeatedly failed to provide accurate or timely restoration information." [Direct Testimony of Barbara R. Alexander, Docket No. D.P.U. 09-01-A, pg. 14.] In addition, "Unitil's underfunded vegetation management program likely result[ed] in more hazard trees and therefore more damage during ice storms." [Testimony of Richard E. Brown, Docket No. D.P.U. 09-01-A, pg. 22]. Our experts found that "the biggest contribution to long restoration times were insufficient crews early in the restoration process", the lack of which "was avoidable since contractor crews were available." "Unitil simply did not attempt to contact these resources." [Testimony of Richard E. Brown, Docket No. D.P.U. 09-01-A, pg. 23].

These experts concluded that there was a significant gap between the practices of other Massachusetts utilities and those followed by Unitil during the December 2008 ice storm.

In the proceedings which are still ongoing before the Department, our office will recommend that certain actions be ordered. These recommendations are likely to include measures to remedy any and all restoration shortcomings as well as financial sanctions. We want to understand what if anything went wrong so we can prevent such extended outages in the future. Likewise, we will urge the Department to adopt appropriate punitive measures if it is found that Unitil or any of the other utilities has not acted in the interests of its customers or failed to comply with Department regulations and statutory requirements. Like many of you, we want answers as to why Unitil's restoration effort took so long, and was reportedly handled in a manner described at various times as "confused", "chaotic" and "unprofessional."

This hearing provides a great opportunity for you to look at proposed legislative changes that may hopefully prevent a situation like the one that occurred in December of 2008 from ever occurring again in Massachusetts. However, I want to emphasize that today's hearing is one step in this process of analyzing what transpired immediately after the storm and how we can prevent its reoccurrence. In addition to testifying here today, our office is continuing to participate in the ongoing proceedings before the Department.

Given the Department's investigation, and the fact that another month of discovery still exists, our office is not in a position to comment specifically about these bills at this time. However, I urge the Committee to consider some of the following principles in crafting legislation. First, as a general rule, legislation should ensure that regulators have the proper tools to make certain that utilities are prepared for major

events as well as the ability to levy penalties for failing to meet these requirements. Requirements for mandatory mutual aid agreements, emergency restoration plans and the ability for the Department to specifically fine a company for restoration shortfalls are good concepts to pursue. Second, while specific mandates are important regarding utility operations and maintenance, the Committee should focus on strong service quality standards that adequately measure company performance and indentify deficiencies before they result in failures impacting customer service. Third, the Committee should consider increasing penalties for failing to meet service quality standards to incent companies to make the right investment in resources to meet these needs. Finally, the Committee should review the adequacy of regulator's ability to levy other penalties for failing to properly maintain its system and address specific incidents. Collectively, these principles can put the Commonwealth in a position of preventing the hardship suffered by Unitil's customers in the wake of the December 2008 ice storm.

In closing, I would like to thank Governor Patrick, Lieutenant Governor Murray, Senator Flanagan, Representative DiNitale and Mayor Lisa Wong, as well as the entire legislative delegation from the region impacted by the storm, including: Representative Robert L. Rice, Jr., Representative Jennifer Benson, and Representative Robert Hargraves, for all their efforts during and after the storm. I again thank Chairman Finegold, Chairman Morrissey and members of the Committee for allowing me the opportunity to testify here today.