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February 2, 2005

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station – 2nd Floor
Boston, Massachusetts 02110

Re: City of Cambridge, D.T.E. 04-65

Dear Secretary Cottrell:

Cambridge Electric Light Company d/b/a NSTAR Electric hereby submits its Reply Brief in the above-referenced proceeding. If you have any questions regarding this document, please feel free to contact me or Jack Habib.

Very truly yours,

David S. Rosenzweig

David S. Rosenzweig

Enclosures
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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of the City of Cambridge Regarding the Purchase of Street Lighting Equipment from Cambridge Electric Light Company	)	D.T.E. 04-65

REPLY BRIEF OF NSTAR ELECTRIC

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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of the City of Cambridge Regarding the Purchase of Street Lighting Equipment from Cambridge Electric Light Company	)	D.T.E. 04-65

REPLY BRIEF OF NSTAR ELECTRIC

I. INTRODUCTION

Cambridge Electric Light Company, d/b/a NSTAR Electric ("NSTAR Electric" or the "Company"), files this reply brief to respond to the initial brief of the City of Cambridge (the "City") in the above-referenced proceeding before the Department of Telecommunications and Energy (the "Department").[1]

II. SUMMARY OF ARGUMENT

In this case, the City is asking the Department to resolve a dispute with the Company over the proper valuation of streetlighting equipment subject to sale to the City under G.L. c. 164, § 34A ("Section 34A"). Although the City makes a variety of arguments in its initial brief, the City's case rests primarily on the claim that the "precedent" established in prior cases requires the Department to value the Cambridge streetlighting equipment by computing a "proxy" value, which derives an accumulated depreciation balance by simply multiplying the year-by-year average balance of gross plant in service times the approved streetlighting-related depreciation rate, rather than using the accumulated depreciation recorded on the

[1] In responding to the City's initial brief, the Company will not repeat arguments at length that were addressed in its Initial Brief. Silence on any matter raised by the City does not indicate the Company's agreement with any issue raised by the City. The Company expressly reasserts the positions and arguments set forth in its Initial Brief.

Company's books. As discussed below, the City's claim that the Department is required by "precedent" to use the proxy valuation is mistaken for two fundamental reasons.

First, Section 34A requires that the Company be compensated for its unamortized investment in the streetlighting equipment subject to sale. Thus, the plain language of the statute requires that the Department ensure that the purchase price will be "equivalent to" or "a counterbalancing payment" for the investment recorded on the Company's books.[2] The record shows that the Company records gross plant additions and accumulated depreciation on its books in accordance with Generally Accepted Accounting Principles ("GAAP"), regulatory standards and industry practice. In addition, the Company's books are routinely audited by independent auditors and the Federal Energy Regulatory Commission ("FERC") to ensure compliance with accounting rules. Therefore, in any case involving the valuation of streetlighting equipment, the amounts recorded on the Company's books establish the actual value of the equipment subject to transfer and the Company will be "compensated" only to the extent that it receives the actual, recorded value of the streetlighting equipment.

In that regard, the "precedent" established in prior cases on the determination of compensation is narrow. In the prior cases referenced by the City, the Department derived a compensation value for the sale of streetlighting equipment through a formula rather than relying on booked amounts because: (1) the actual booked amounts for accumulated depreciation were not available on a town-specific (or equipment-specific) basis; and (2) the distribution company did not demonstrate the reasonableness of its proposed methodology to allocate system-wide accumulated depreciation to the specific streetlighting equipment

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2 See http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=compensate&x=16&y=9 from the Merriam Webster Online Dictionary.

subject to sale. Petition of the Town of Waltham, D.T.E. 02-11, at 10-12 (2002); Joint Petition of the Towns of Edgartown, Harwich and Sandwich, D.T.E. 01-25, at 5-6 (2001); Petition of the Towns of Lexington and Acton, D.T.E. 98-89, at 4-5 (1998). In those cases, the proxy valuations approved by the Department fell short of the net book value (and therefore under-compensated the Company). However, the Department found it necessary to use these alternative valuation methodologies in order to determine the "allocable" amount of unamortized investment due from the municipality given the particular circumstances and data limitations presented in those cases.

As a result, the only "precedent" resulting from these cases is that the Department will look beyond booked amounts to establish a distribution company's compensation only when it is necessary to do so to ensure that the selling price is "not influenced by factors extraneous to the [t]owns." D.T.E. 01-25, at 6. In the case at hand, the Company's books present the actual gross plant in service and the actual accumulated depreciation amounts relating only to Cambridge streetlighting equipment. Accordingly, there is no valid concern that the valuation generated by the booked amounts is influenced by factors extraneous to the City, and therefore the Department need not look beyond the actual booked amounts associated with the streetlighting equipment subject to sale to determine a sales price.

The second flaw in the City's claim is that the proxy methodology proposed by the City under-values the assets by failing to include all necessary cost components in the calculation. Specifically, the City's methodology omits the actual cost of removal (less salvage value) of streetlighting equipment that has been retired in the past from the calculation of accumulated depreciation. There is no basis for this omission. Under GAAP, FERC accounting rules, the Department's Uniform System of Accounts and well-established

Department ratemaking practice, the cost of removal less the gross sales proceeds from equipment that is salvaged, i.e., "net salvage value," is a required element of the accumulated depreciation account balances.[3] The City urges the Department to ignore the cost of removal component and establish a "purchase price standard" that is less than net book value, or alternatively, to disregard "general accounting rules" when valuing streetlight equipment (City Initial Brief at 8, 10). Both suggestions defy common sense and are contrary to required accounting practice. Neither suggestion provides the Department with a legitimate basis to approve the City's proxy valuation, while also meeting its statutory obligation to ensure that the Company is "compensated" for its unamortized investment in the streetlight equipment subject to sale. The Company (and its customers) will not be compensated where valid, documented and generally recognized costs are omitted from the calculation.[4] Accordingly, the Department should reject the City's proxy valuation and find that the compensation due is the "unamortized investment" recorded on the Company's books.

III. THE AMOUNT RECORDED ON THE COMPANY'S BOOKS IS THE "UNAMORTIZED INVESTMENT" IN STREETLIGHT EQUIPMENT.

The City attempts to justify its proxy valuation by muddling the statutory language in Section 34A, the Department's prior findings on streetlighting valuations and the accounting

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3 The Department's Uniform System of Accounts for Public Utilities adopts the FERC Uniform System of Accounts in all areas relevant to the Company's analysis herein. 220 C.M.R. § 51.

4 Moreover, the City's proxy valuation will not be "corrected" with the addition of the actual costs of removal, less gross sales proceeds from salvaged equipment because this cost element is not the only factor separating the City's proxy valuation from the unamortized investment recorded on the Company's books. In fact, if the Department were to approve a variation of the City's proxy valuation, including the costs of removal presented in RR-DTE-2 and Exhibit NSTAR-CLV-2(Rev), the resulting valuation would still not compensate the Company because it would not be equal to the amount recorded on the Company's books, which relates specifically to streetlighting equipment located in the City of Cambridge. See Exh. NSTAR-CLV at 27.

and ratemaking practices that are used to properly account for the Company's investment in streetlighting equipment. Contrary to the claims of the City, the Department cannot overlook the results of these incontrovertible and universally accepted principles. GAAP, FERC accounting rules and Department ratemaking precedents prescribe the recordkeeping practices of the Company for the specific purpose of ensuring that the financial results reported by electric distribution companies are consistent, objectively measured and reliable. The interaction of these accounting and financial reporting requirements result in a recorded value for streetlighting assets that reflects both the normal use of the assets and the impact of other events that affect value, such as retirements, cost of removal and any salvage value obtained from the disposition of assets. Therefore, the Department's determination of "unamortized investment" under Section 34A must begin with both the components and amounts recorded on the Company's books.

In that regard, the accounting process for a company's investment in streetlight plant occurs as follows:

1. When Streetlight Plant is Installed: Consistent with the requirements of 18 C.F.R. Chapter 1, Part 101, Electric Plant Instruction No. 3 (Components of Construction Cost), the Company charges direct and indirect costs incurred to install streetlight assets for utility service to work orders that track the costs and other details of construction activity.

2. When Installation is Complete: Electric Plant Instruction No. 10 (Additions and Retirements of Electric Plant) B. (1) requires that, when the installation of new streetlighting units is complete, construction costs are summed and added to the appropriate electric plant accounts.

3. When Streetlighting Plant Is in Service: While streetlighting plant is in service, the amount of gross streetlighting plant recorded on the books is depreciated on an annual basis. Each year, depreciation expense is determined by multiplying the streetlight-related depreciation rate times the average gross (streetlight) plant in service in that year. At any given time, the amount of gross plant in service, less the accumulated depreciation balance is the net book value, or "unamortized investment," in streetlighting equipment. Thus, depreciation systematically recognizes the cost of an

asset and the change in value that results from the normal use of the asset over its useful service life.

4. When Streetlighting Plant is Retired: When streetlighting plant is retired, Electric Plant Instruction No. 10 (Additions and Retirements of Electric Plant) B. (2) requires the Company to remove the original cost of the streetlighting equipment being retired from the appropriate Gross Plant in Service accounts. The original cost is also deducted from the appropriate Accumulated Depreciation accounts regardless of the length of time that the asset has been in service.

   In addition, if there are costs of removal, these costs must be charged to Accumulated Depreciation. If the retired equipment has a salvage value, then the gross proceeds obtained from the sale of the equipment are subtracted from the cost of removal with the net amount, or "net salvage value," added to Accumulated Depreciation. If the cost of removal is greater than the salvage value then the net amount is subtracted from the Accumulated Depreciation balance. This same calculation applies regardless of whether equipment is retired "early," i.e., before being fully depreciated, or is retired beyond its original expected useful life.

These established accounting and regulatory principles for recording plant and determining accumulated depreciation are important because accumulated depreciation is the linchpin of the Department's valuation of unamortized investment.

As recognized by the Department (and the City), accumulated depreciation is a necessary element of the determination of "unamortized investment" (see, e.g., Exh. NSTAR-CLV at 9, 18-20. D.T.E. 01-25, at 5; D.T.E. 98-89, at 3 (1998). However, the City fails to account for it properly. Under GAAP and FERC accounting rules, the accumulated depreciation account balances recorded on the Company's books result from two countervailing components: (1) the annual depreciation expense relating to the gross plant in service (which increases accumulated depreciation); and (2) the cost of plant retirements, including net salvage (which decreases accumulated depreciation). When plant is retired, accumulated depreciation is reduced by the original cost of the asset being retired and the actual cost of removal net of any salvage value. The additions and subtractions to the accumulated depreciation account associated with plant additions and retirements are based

on actual events because these events have a cost, and therefore, affect the value of the streetlighting equipment. By design, the depreciation rate that is used to determine depreciation expense for streetlighting is set at a level that increases the accumulated depreciation balance to provide a "depreciation reserve" within the account to offset future (estimated) costs of removal.[5]

To determine "unamortized investment," the accumulated depreciation account balance is subtracted from gross plant in service. Thus, the purchase price for streetlighting assets is artificially lowered if the accumulated depreciation account balance is overstated as a result of the omission of retirement costs actually incurred by the Company. Accordingly, components of cost items that increase and/or decrease accumulated depreciation cannot be isolated and arbitrarily discarded from the computation of the "unamortized investment" without undermining the integrity of the Department's efforts to comply with Section 34A.

In this case, the City is claiming that the Company's booked "net salvage value" should not be included in the determination of "unamortized investment" (City Initial Brief at 3). Specifically, the City suggests it is appropriate to establish a "proxy" balance for accumulated depreciation by simply summing the annual depreciation expense derived by multiplying the streetlight depreciation rate by the average balance of gross plant over a 60-year period. This approach is flawed because it accounts for only one side of the equation, i.e., the increases to the accumulated depreciation account. The City does not reduce the accumulated depreciation account balance for the Company's costs of removal (less salvage

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5 The key determinants of the streetlight-related depreciation rate are: (1) the original cost of the asset; (2) the average remaining service life of the asset group; (3) the expected cost of removal and salvage to be incurred upon retirement; and (4) the actual accumulated depreciation reserve at the time of the study (Exh. NSTAR-CLV at 19).

value) relating to the retirement of streetlight assets, which have the effect of decreasing accumulated depreciation. As a result, the City's approach overstates the accumulated depreciation balance and understates the amount of "unamortized investment" associated with the Company's streetlighting assets, resulting in a valuation that is inappropriately low.

The City contends that the full range of retirement-related costs is embedded in the streetlighting depreciation rate (City Initial Brief at 7-9). The City erroneously concludes that it is appropriate to exclude the actual cost of removal incurred in retiring streetlighting equipment from the calculation of the accumulated depreciation balance (id.). However, the record shows that the Company's actual experience has varied greatly from the cost-of-removal factor embedded in the Company's streetlight depreciation rate because the actual costs of removal during the last ten years in the City of Cambridge have been approximately four times greater than the value of gross salvage (Exh. NSTAR-CLV at 21). Specifically, the record shows that from 1989 to 2003, the Company incurred $612,668 in net salvage value in relation to retirements with an original cost of $1,581,153 (RR-DTE-2, Attachment RR-DTE-2(a)). Therefore, over the last 15 years, the average net salvage value has actually been (negative) 39 percent of retirements, as compared to the (negative) 15 percent embedded in the depreciation rate (id.) Moreover, even if the Company's actual experience for net salvage value exactly equaled the embedded value in its depreciation rates, it would be necessary to include the actual value of net salvage in the determination of accumulated depreciation.

Accordingly, the City's proxy valuation should be rejected by the Department. The City cannot legitimately claim that the Company's actual costs of removal (net of salvage) are inappropriate for inclusion in the determination of "unamortized investment." Net salvage value is an indispensable component of accumulated depreciation and is embedded in the

depreciation rate being relied upon by the City. Therefore, it is inappropriate to first inflate the accumulated depreciation account by the cost of removal built into the depreciation rate, and then to fail to reduce the accumulated depreciation account by the net removal costs the Company has actually incurred, as required by GAAP, FERC and Department accounting rules. These costs have been incurred by the Company, are documented in the record, and are specific to the streetlights being acquired by the City. Therefore, the purchase price must include the Company's actual costs if the Company is to be compensated under Section 34A.

IV. RESPONSES TO THE CITY'S SPECIFIC CLAIMS

A. Contrary to the City's Allegations, the Company's Methodology for Valuing Streetlighting Equipment Is Consistent with G.L. c. 164, § 34.

The City claims that Section 34A treats net salvage value and removal costs as "separate and distinct from the concept of unamortized investment" (City Initial Brief at 3). The City further alleges that the reference in Section 34A to salvage value and removal costs as costs that are compensable by municipalities is limited to circumstances in which "a community elects to purchase some of the lights, and then further elects to have the Company remove the 'un-acquired' lights" (id. at 3-4). The City's interpretation is misguided.

First, the City's position is inconsistent with the plain language of the statute and basic accounting practice. In terms of the plain language of Section 34A, the statute states that any municipality exercising the option to convert its streetlighting equipment shall be required to compensate the electric company fully for its unamortized investment, net of any salvage value under the circumstances, in the lighting equipment owned by the electric company in the municipality. G.L. c. 164, § 34A(b) (emphasis added). As determined by the Department, "unamortized investment is equal to the book value of gross plant in service, net of accumulated depreciation." D.T.E. 01-25, at 5; D.T.E. 98-89, at 3. This definition of

unamortized investment necessitates a full accounting of accumulated depreciation including net salvage value. The Company has shown that, based on GAAP, FERC and DTE standards, its actual removal and salvage costs are appropriately included in the accumulated deprecation balance. See, e.g., 18 C.F.R. Part 101; see also Exh. NSTAR-CLV at 19; Exh. City-1-9. Moreover, the City has recognized that net salvage value is a component of depreciation rates (see Exh. NSTAR-City-1-15). Net salvage must, therefore, be a component of accumulated deprecation in terms of the components that both increase and decrease the account balance in order for the Company to be compensated under Section 34A.

Second, the City suggests that the recognition of net salvage value under Section 34A is limited to situations where a "municipality may, after compensating the electric company for its streetlights in full, subsequently seek the company to remove parts of the equipment." G.L. c. 164, § 34A. Thus, the City would have the Department believe that Section 34A prohibits the Department from including net salvage value from the compensation paid to the distribution company for the net salvage value of its streetlights unless the City's purchase causes unacquired lights to be removed from service. The City's interpretation is not supported by any reasonable reading of the statutory scheme. There is no basis for a claim that the Legislature did not intend distribution companies to be fully compensated for net salvage costs in determining the unamortized investment related to the streetlighting equipment subject to sale, especially where that investment of the equipment cannot be determined without factoring accumulated depreciation into the equation. Because net salvage value is a necessary component of accumulated depreciation, it is also an indispensable component of "unamortized investment."

Moreover, given the care throughout the Electric Restructuring Act of 1997 (the "Restructuring Act") to define precisely and limit stranded costs and to develop associated cost-recovery mechanisms, the City's interpretation flies in the face of the intent of the Restructuring Act. The Legislature could not have intended a result in which a sale of streetlights would result in only partial compensation for distribution companies and discounts for purchasing municipalities (by not fully recognizing accumulated depreciation), where the plain language states that that the distribution company will be compensated.[6] Therefore, the Department should reject the City's interpretation of Section 34A.

B. The City's Attempt to Distinguish Unamortized Investment and Net Book Value Is Without Merit and Is Contradicted by its own Witness in the Proceeding.

The City next attempts to suggest that, because G.L. c. 164 includes references to "book value" in some contexts (e.g., G.L. c. 164, § 1A(b)(1)) and "unamortized investment" in Section 34A, the terms should be considered distinguishable for purposes of interpreting Section 34A (City Initial Brief at 4-5). The Restructuring Act does not establish either "book value" or "unamortized investment" as a defined term. Therefore, the term must be read in the context of the relevant provision. In that regard, even the City's own witness acknowledged that "[t]he calculation of unamortized investment for purposes of purchasing streetlights should be consistent with the company's traditional accounting practices for tracking original investment and accumulated depreciation for ratemaking purposes" (Exh.

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6 Notably, the City's purchase price calculation (Exh. CAM-5) includes the costs of all of the Company's historical additions since 1942, all retirement costs since 1942 (excluding removal costs) and all depreciation costs since 1942. Thus, the City is asking the Department to ignore arbitrarily a single component of the accumulated depreciation amount, i.e., the actual costs of removal and salvage of streetlighting equipment. This interpretation is nonsensical and inconsistent with the language of Section 34A.

CAM-PLC at 3; Tr. 1, at 30). The City's witness further conceded that, under utility accounting and ratemaking practices, unamortized investment and net book value are synonymous in that they are typically determined by the original cost of an investment less accumulated depreciation (Tr. 1, at 18-19).

In addition, the statutory references in Chapter 164 cited by the City as using "book value" have nothing to do with the sale of streetlights or the Department setting a value of utility assets for a sale to a third party. Equating unamortized investment and net book value achieves the only reasonable and fair standard for valuing streetlights consistent with the Department's general ratemaking practices. Accordingly, the City's attempt to distinguish the terms "net book value" and "unamortized investment" are not supported by the record in this proceeding, the Restructuring Act and Department precedent, and should be rejected.

C. The City's Proxy Methodology of Recreating the Company's Books Is Unnecessary in this Proceeding.

The City claims that the appropriate calculation of unamortized investment resulted from the exercise of the parties to "re-create" the Company's books to derive a figure for accumulated deprecation, using only the Company's gross plant and annual deprecation rates, beginning in the 1940s (City Initial Brief at 5-8, citing Exh. CAM-5 and Exh. City-1-13(a)). The Company performed this exercise in response to a discovery question in which the City asked the Company to recreate the Company's books in a manner similar to that performed by the City, based on the methodology used in D.T.E. 98-89 (Exh. City-1-13). The Company explicitly disavowed the exercise as unnecessary, because, unlike D.T.E. 98-89, the City is the Company's sole municipality in the service territory, and therefore, the Company has records for depreciation expense, retirements, cost of removal and salvage specific to the City of

Cambridge (id.).[7]

In fact, any proxy methodology that requires an artificial construction of the Company's books is unnecessary (and insufficient) in this case because the actual books of the Company include the gross plant and accumulated depreciation figures applicable to the streetlighting equipment to be purchased by the City back to the early 1940s (Exh. NSTAR-1; Exh. NSTAR-2; RR-DTE-2). The Company has "deconstructed" its books to confirm the accuracy of its accounting records with contemporaneous information, as requested by the Department, by producing evidence of annual activity relating to its streetlighting accounts, including additions, retirements, depreciation expense and actual net salvage costs (RR-DTE-2). The Company's exercise demonstrated that, if the Department ignored the Company's actual net salvage costs in determining a valuation methodology for the Company's streetlights, nearly $1 million dollars would be unrecovered by the Company (RR-DTE-2; Exh. NSTAR-CLV-2(Rev)).

Ironically, the City cites with favor in its brief the Department's finding in D.T.E. 01-25 that, "[c]onsistent with the Boston Edison method, *had Commonwealth provided Town specific information on early retirements*, those costs should have been factored into the calculation of the Company's unamortized investment . . ." D.T.E. 01-25, at 6 (emphasis added)). Notably, the City argues that this should be considered the "preferred formula" for valuing streetlights, when community-specific cost data are available (City Initial Brief at 7). The Company agrees: The Department's finding correctly envisions that,

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7 Moreover, the Company included an additional calculation of unamortized investment in the same response, which included net salvage costs, and the Company arrived at a figure for accumulated depreciation that was similar to that found on the Company's books (Exh. City-1-13(b)).

when determining the price for streetlights to be sold pursuant to Section 34A, *all relevant costs* must be included in the purchase-price calculation.

D. Contrary to the City's Contention, It Is Not "Common Sense" For the Valuation Standard in Section 34A To Be Interpreted as Requiring Less Than Net Book Value for a Company's Streetlighting Equipment.

The City suggests that "[i]t makes common sense" for the valuation standard in Section 34A "to be less than net book" (City Initial Brief at 8).[8] The City cites to the Department's approved valuation methodologies in D.T.E. 98-89 and D.T.E. 01-25 as support the proposition that a "common sense" approach will satisfy the standard set in Section 34A (id. at 9). In support of its claim that "common sense" should prevail, the City misapplies the Department's precedent in D.T.E. 01-25, makes misplaced references to allocation procedures and Iowa curves for accumulated depreciation, and demonstrates a misunderstanding of general accounting principles.[9]

Most significantly, the City attempts to gloss over the fact that the Department has used a proxy determination of unamortized investment only when actual data was not available, which is not the case at hand (Company Initial Brief at 8-10). Thus, if anything, the Department's decisions in D.T.E. 98-89 and D.T.E. 01-25 stand for the implicit determination that a full and fair determination of unamortized investment (i.e., net book value) may not be

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8 The City includes no legal citation in support of the application of its novel "common sense" standard of review. It is, of course, a proper legal tenet that statutory language must be "given its ordinary meaning without overemphasizing its effect upon the other terms appearing in the statute, so that the enactment considered as a whole shall constitute a consistent and harmonious statutory provision capable of effectuating the presumed intention of the Legislature." Bolster v. Commissioner of Corps. & Taxation, 319 Mass. 81, 84-85 (1946).

9 For example, the City makes an inapt distinction between composite depreciation rates and streetlight-specific depreciation rates as justifying a discount from net book value (City Initial Brief at 8-9). The fact is that both the Company's books and Mr. Chernick's analysis use streetlight-specific depreciation rates, and not a composite distribution-plant rate.

achieved in the absence of specific data or a reasonable methodology to allocate system-wide accounts, but, on balance, a valuation should be set that ensures that the price paid by the municipality was not "influenced by factors extraneous to the [t]owns." This is not a concern in this case, and therefore, the Department's finding cannot be used to stand for the proposition that compensation should be set at less than net book value in every case. Accordingly, neither "common sense" nor even simple logic supports the City's contention, and therefore, it should be rejected.

E. The City's Reliance on a May 1998 Letter from the Company Is Completely Misplaced.

The City attempts to justify its proxy valuation by citing to a "study" of streetlight values in the City performed in May 1998 (Exh. PLC-S-1) by the Company's account representative and claiming that this study relies on a methodology that differs from the Company's valuation in this proceeding (City Initial Brief at 10). This is an accurate, but irrelevant, observation. The May 1998 letter was not intended in any way by the Company to be an official streetlighting valuation under Section 34A. Ms. Vaughan indicated on the record that the 1998 analysis was provided by the Company's customer-care representative at the time, was not reviewed by the Company's accountants and was developed in error (Tr. 1, at 127). Accordingly, the City's contention is neither probative nor relevant to the Department's consideration of the methodology for valuing streetlighting equipment at issue in this proceeding. Thus, the Department should give no weight to the City's argument on this point.

F. The City's Comparison of the Company's Streetlighting Equipment Valuation Methodology in 1998 to the Company's and Boston Edison Company's Past Streetlighting Tariffs Is Irrelevant.

The City next attempts to compare the value identified in the May 1998 letter with the

then-effective streetlighting tariffs of both the Company and Boston Edison Company ("Boston Edison") (City Initial Brief at 11-12). The Boston Edison S-1 tariff for streetlighting contained a provision for establishing a methodology on the cost of removal for certain lights at the request of a customer.[10] This line of argument is not relevant to this proceeding because it has no bearing on Section 34A and the Company's streetlighting valuation methodology presented in Exhibit NSTAR-1. The Hearing Officer agreed during the evidentiary hearing that the tariffs cited by the City are not relevant to the determination of unamortized investment under the applicable statute in this proceeding (Tr. 1, at 120). Accordingly, the Department should give no weight to the City's claim on this point.

G. The City's Arguments Regarding the Inclusion of the Company's Actual Negative Net Salvage Costs Are Unsupported and Should Be Rejected.

Because of the fundamental omission of net salvage value in Mr. Chernick's methodology, the City asks the Department to ignore the evidence presented by the Company regarding its actual negative net salvage costs, claiming that the evidence was presented "late" and is "unreviewed" (City Initial Brief at 12-14, 17-18). In support of this claim, the City cites the fact that it was "first introduced by the Company into this proceeding on December 17, 2004, after the deadline for any further discovery questions from the City had passed" (id. at 12). This claim is wholly unfounded.

The record shows that the Company first discovered the basis for the difference between its booked streetlight accumulated deprecation and the City's "recreated" accumulated deprecation figure in the context of answering discovery questions posed by the

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[10] The methodology for determining the installation cost of a specific light, in part, references "the ratio of 1) 25 years minus the age of such installation to 2) 25 years" (Tr. 1, at 121).

City and the Department (Tr. 1, at 70). Prior to the commencement of this proceeding in October 2004, the Company had no reason to delve into every sub-account relating to its streetlighting equipment to identify the flaws in the City's methodology. It was only when the Company analyzed the City's "proxy" analysis in the context of this case and additional discovery that the Company was able to identify precisely why the City's reconstruction of the Company's books was erroneous, and to locate the source of the discrepancy as the failure to include the actual negative net salvage costs incurred by the Company. The Company explained this discrepancy and its source in response to information requests from the City and the Department in December 2004 in accordance with the procedural schedule.

In addition, contrary to the City's claim that it had no opportunity to respond to the information, the City addressed the information on negative net salvage value in Mr. Chernick's pre-filed supplemental testimony (Exh. CAM-PLC at 8-14 (Supplemental)). In fact, the City had approximately one month to scrutinize the Company's data on net salvage value before evidentiary hearings commenced. This was more than adequate time and it is consistent with the procedural schedule in the case. Moreover, to the extent that the City had additional questions regarding the Company's discovery responses that were filed on December 17, 2004, the City had every opportunity to seek to reopen discovery or to cross examine the Company's witness to ask the very questions that it raises in its Initial Brief. In that regard, the Department asked an additional set of questions between December 17, 2004 and the evidentiary hearing on January 14, 2005, and the Department posed two record requests to confirm the accuracy of the Company's net salvage value information (RR-DTE-1; RR-DTE-2). Further, the City's allegation that the "Company has been refusing to provide their own calculation since July of 2003" is patently untrue (City Initial Brief at 17). The

Company's position from the outset of this matter has been that the proper methodology for valuing its streetlights is the net book value recorded on the Company's (audited) books for streetlighting equipment. The Company's calculation as of December 31, 2003 is represented by Exhibit NSTAR-1 was presented to the City in May 2004.[11]

Accordingly, the Company's information regarding its actual removal and salvage costs was presented in a timely manner during the proceeding, allowing ample opportunity to analyze the evidence through additional discovery, cross-examination, or both. The fact that the information was unexpected by the City does not mean that it is incorrect or inconsistent with Section 34A. Nor does the fact that the City chose not to investigate the data further serve to undermine the probative nature of the information provided by the Company regarding its historical removal and salvage costs.

H. The City's Contention That the Company Did Not Comply With Applicable Regulations in Recording Removal Costs Is False and Unsupported.

The City argues in its Initial Brief that the Company failed to "simultaneously" record its costs relating to its streetlighting plant account as they were incurred (City Initial Brief at 14-17). However, there is no evidence that the Company's books of account are not developed contemporaneously or that they are manipulated by the Company, nor has the City cited to any support for this baseless contention. To the contrary, as a regulated electric distribution company, NSTAR Electric is subject to numerous regulatory, financial and accounting reviews, including annual audits by independent external auditors and separate,

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[11] Moreover, the Company provided its price to the City based on the Company's December 2002 unamortized investment in the early stages of negotiations with the City in 2003. See Exh. CAM-4.

periodic audits by the FERC (Exh. NSTAR-CLV at 7-8; Tr. 1, at 11). Accordingly, the City's claim is totally groundless.

In addition, the City's allegation that the Company somehow failed to record its removal costs during the year in which they were incurred is inconsistent with the evidence provided by the Company in this proceeding showing annual streetlighting account activity since 1992 (RR-DTE-2). The record shows that the Company has not made up net salvage figures "after the fact" or "artificially constructed" figures as the City would have the Department believe (City Initial Brief at 16-17). The Company's net salvage figures were offered in this proceeding to demonstrate that the City's proposed methodology, as reflected in Exhibit CAM-5, fails to account for the Company's actual historical costs to remove streetlighting equipment from service and that that failure accounts for the approximately $1 million discrepancy between the Company's actual, audited books of account and the City's "re-created" books. Thus, the City's contention is not supported by the evidence and should be rejected.

I. The Company's Calculation Is Simpler Than the City's Methodology and, More Importantly, It Is More Accurate.

The City claims that its methodology of recreating the Company's books of account is simpler than using the Company's actual books of account (City Initial Brief at 18-19). The City's methodology "builds up" the Company's books, by proxy, over a 60-year period using a variety of assumptions on gross plant investment, depreciation rates and accumulated depreciation (Exh. CAM-5; Exh. NSTAR-CLV at 19). Not only is this approach far more complicated than using the actual net book value of the Company's streetlighting equipment, it is incomplete and inaccurate in that it fails to account for costs actually incurred by the Company to provide streetlight service (Exh. NSTAR-CLV at 19; Tr. 1, at 39-40; RR-DTE-

2). More importantly, although the Company disagrees that the use of actual booked amounts is any less "simple" than using a methodology based on a host of assumptions and proxy values, the standard set in Section 34A is not simplicity, it is fair compensation.

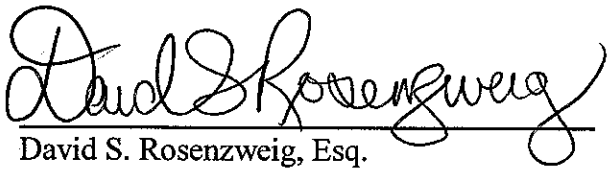
V. CONCLUSION

Section 34A requires that the Company be compensated for its unamortized investment in the streetlighting equipment subject to sale. In this case, there is no valid concern that the valuation generated by the Company's booked amounts is influenced by factors extraneous to the City, and therefore, there is no basis for the Department to look beyond the actual booked amounts to establish the sale price for the Cambridge streetlighting assets. Moreover, the City's proxy methodology under-values the assets by failing to include all necessary cost components in the calculation. For these and other reasons discussed above and in the Company's Initial Brief, the Department should approve the Company's valuation of its streetlighting equipment to be sold to the City.

Respectfully submitted,

CAMBRIDGE ELECTRIC LIGHT COMPANY

By Its Attorneys,



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