Commonwealth of Massachusetts
Department of Telecommunications and Energy

Petition of Cambridge Electric Light Company and Commonwealth Electric Company for approval of their 2005 Transition Cost Reconciliation Filing	)	D.T.E. 05-89

Comments of
Constellation NewEnergy, Inc. and
Constellation Energy Commodities Group, Inc.

I. INTRODUCTION

Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, "Constellation") are pleased to submit the following comments to the Department of Telecommunications and Energy (the "Department") regarding the Transition Cost Reconciliation Filing (the "Filing") submitted by Cambridge Electric Light Company and Commonwealth Electric Company (the "Companies"). These comments are limited to issues relating to the Default Service Adjustment Charge ("DSAC"). Constellation offers no objection to the recovery of the costs reflected in the charge; all costs incurred to provide Default Service should be recovered. However, we advocate a different recovery mechanism.

II. ARGUMENT

The Filing proposes to assess a Default Service Adjustment Charge on all customers (whether or not they receive Default Service) and to collect it through delivery charges. The Filing explains that the Companies' Default Service prices have not been sufficient to recover the full costs of providing the service. As a result, the Companies have a Default Service deferral balance at the end of calendar year 2005. The Companies

propose to recover these Default Service **supply costs** from all customers through a surcharge (the DSAC) on the **delivery** component of the bill.

The Department should reject this aspect of the Filing and direct the Companies to recover Default Service costs through Default Service charges, rather than through delivery charges, for several reasons.

The Companies' proposal conflicts with the Department's long-established principle that "default service prices should include all costs of providing default service." Provision of Default Service, D.T.E. 02-40-B at 14 (2003). As the Department has found on numerous occasions, collecting Default Service costs through distribution rates thwarts the development of the competitive market.

> [T]he slow rate at which a competitive market has developed for the residential and small C&I customer classes indicates the importance of ensuring that default service prices include the full costs incurred in providing the service. Default service may serve as a barrier to competition as long as competitive suppliers must recover all of their costs through the prices they charge customers, while distribution companies are able to recover some of their default service-related costs through their distribution base rates.

Id at 15. See also, Standard Offer Service Fuel Adjustments, D.T.E. 00-66, 00-67, 00-70 (December 4, 2000) ("The Department has sought to ensure that prices for generation -- the only competitive portion of customers' electricity service -- reflect the *full* costs of the service, in order to promote competition.") (emphasis in original) *citing* Fitchburg Gas and Electric Light Company, D.T.E. 97-115/98-120, at 30 (1999); Western Massachusetts Electric Company, D.T.E. 97-120, at 190 (1999).

As the Department has also explained, thwarting competition through below-cost Default Service pricing harms customers.

> Stunting the growth of the competitive suppliers' share of the power market patently would subvert, and could well defeat, the purposes of the Restructuring Act. If we did not allow this market to develop, the promise of electric restructuring would remain unrealized. Consumers would be ill-served in the long run. The Department must make every effort to ensure that customer choice is a valid option for all as soon as possible.

Standard Offer Service Fuel Adjustments, D.T.E. 00-66, 00-67, 00-70.

Moreover, the Companies' proposal violates principles of cost causation and equity. The costs at issue were incurred to serve Default Service customers. They should be recovered from those customers rather than from the entire population of customers, which includes competitive supply customers. As the Department has explained, "[e]quity requires us to ensure that customers on whose behalf costs are incurred are the same customers who bear those costs." Standard Offer Service Fuel Adjustments, D.T.E. 00-66, 00-67, 00-70.

Of course, the population of Default Service customers changes over time. As a result, it is not possible to recover deferred costs from the exact population of Default Service customers on whose behalf the costs were incurred. However, there is also no question that it is **more** equitable and **more** consistent with principles of cost causation to recover the costs from today's Default Service customers than it would be to recover the costs from all customers.

The Department should reach a different conclusion today than it did five years ago in Pricing and Procurement of Default Service, 99-60-C (2000). In that proceeding, the Department examined the issue of Default Service deferrals and concluded that those

deferred costs should be recovered through distribution rates rather than Default Service prices.[1] That policy should be revisited.

First, the Department has already modified several aspects of it orders in Pricing and Procurement of Default Service as its understanding of the effect of Default Service on the competitive market has developed. For example, in Pricing and Procurement of Default Service the Department concluded that it was not necessary to include the costs of supply procurement and unrecovered bad debt in Default Service prices. 99-60-B at 19. However, three years later the Department changed course and ordered those costs included. Provision of Default Service, D.T.E. 02-40-B (2003). Similarly, in Pricing and Procurement of Default Service the Department set the minimum Default Service procurement period at six months. 99-60-B. However, three years later, with a better understanding of the market, the Department changed the procurement period for larger customers to three months. Provision of Default Service, D.T.E. 02-40-C (2003).

Second, the concern that produced the Department's decision five years ago has proven to be unfounded. In 2000, the Department feared that collecting Default Service deferrals from Default Service customers might "result in large swings in the default service price since the load may vary significantly from one month to the next month." Id at 13. Accordingly, the Department concluded that "it is not practical to collect or refund the default service reconciliation costs from or to only actual default service customers." Id. However, given the Department's policy of reconciling Default Service costs on an annual basis and the relatively modest sums at issue in this case, collecting the reconciliation costs from Default Service customers will not cause "large swings" in

[1] The Filing suggests that the Companies' existing DSAC tariff provides that DSAC charges will be recovered from all customers. However, the tariff language does not prevent the Department from

the Default Service price. Therefore, it unquestionably is "practical" to recover these Default Service costs from Default Service customers. Moreover, if the Department finds that large swings do occur this issue can be revisited.

The Department offered an additional reason for its 2000 decision to recover Default Service deferrals from all customers: It suggested that Default Service acts as "insurance" that benefits all customers whether or not they receive the service; therefore all customers should pay a portion of the costs. 99-60-C at 13. However, the Department did not explain why the DSAC would be the appropriate "premium" for this "insurance." Indeed, the DSAC seems a particularly inappropriate premium given that the charge varies from year to year, is most often zero, and can even be a credit (if a company over-recovers Default Service costs). In that case, customers would be paid for receiving the "insurance." Moreover, the Department did not explain how collecting Default Service "insurance" premiums through delivery charges can be reconciled with the Department's long-established principle that Default Service prices should reflect the full cost of the service.

The Department's Default Service policy has evolved over time as experience and knowledge have deepened. The next step in that evolution is to require that deferred Default Service costs be recovered through Default Service prices.

III. CONCLUSION

For the foregoing reasons, Constellation urges the Department to direct the Companies to recover the Default Service Adjustment charges through Default Service prices.

---

directing a different result; tariff language is of course subject to change.

Respectfully submitted,

CONSTELLATION NEWENERGY, INC.
By its Attorney,

_____

Paul W. Gromer
Paul Gromer, LLC
151 Merrimac St., Suite 660
Boston, MA 02114
617-227-7024

Thomas E. Bessette
Director Regulatory and Government Affairs
Constellation NewEnergy, Inc.
800 Boylston Street, 28th Floor
Boston, MA 02199
(617) 772-7519

CONSTELLATION ENERGY GROUP, INC.
By its Attorney,

_____

Lisa Decker
Counsel
Constellation Energy Group, Inc.
111 Market Place, Suite 500
Baltimore, MD 21202
410-468-3792

Daniel Allegretti
Vice President, Regulatory Affairs
Constellation Energy Commodities Group
111 Market Place, Suite 500
Baltimore, MD 21202
410-468-3306

Dated: December 16, 2005