D.T.E. 98-48/49-Phase II

Joint Petition of Fitchburg Gas and Electric Light Company for Approval by the Department of Telecommunications and Energy of a Five-Year Energy Efficiency Plan for 1998-2002.

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I. INTRODUCTION

On May 1, 1998, Fitchburg Gas and Electric Light Company ("Fitchburg" or "Company") filed with the Department of Telecommunications and Energy ("Department") its five-year Energy Efficiency Plan ("Plan") covering the period March 1998 through December 2002. The Department docketed this and a related filing as D.T.E. 98-48/49. On November 6, 1998, the Department divided D.T.E. 98-48/49 into Phase I, to determine the appropriateness of continued recovery of lost base revenue ("LBR"), and Phase II, concerning the remaining non-LBR issues.

On November 5, 1999, the Department issued an Order in Phase I of this docket. That Order rejected Fitchburg's continued recovery of electric LBR. The Department required Fitchburg to re-file its Plan within 90 days of the date of the Order. Fitchburg Gas and Electric Light Company, D.T.E. 98-48/49-Phase I (1999). On November 24, 1999, Fitchburg filed a Motion for Reconsideration ("Motion"). On January 10 and 11, 2000, the Commonwealth of Massachusetts Division of Energy Resources ("DOER") and the Attorney General for the Commonwealth filed objections to the Motion. On November 9, 2000, the Department issued an Order on the Motion that affirmed its initial Order in D.T.E. 98-48/49, Phase I. Fitchburg Gas and Electric Company, D.T.E. 98-48/49-Phase I (2000).

On February 9, 2001, Fitchburg filed its revised Plan with the Department. On June 28, 2001, an Offer of Settlement ("Settlement") was filed by Fitchburg and the following intervenors in this docket: the Northeast Energy Efficiency Council and Action, Inc., Massachusetts Energy Directors Association, and Massachusetts Community Action

Association.[1] The Settlement incorporates Fitchburg's Plan and augments it to include performance incentives for 1998-1999 and performance incentive goals for 2001 (Settlement at 5-7, App. B). The signatories to the Settlement indicate that the Attorney General was unable to participate actively in settlement negotiations but does not oppose the Settlement (Settlement at 1). On July 31, 2001, the settling parties extended the Settlement expiration date until August 17, 2001.

On July 9, 2001, pursuant to G.L. c. 25A § 11G, 225 C.M.R. § 11.00 et seq., and Order Promulgating Final Guidelines to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000) ("DTE Guidelines"), DOER filed a report on the Plan with the Department ("DOER Report"). The DOER Report concludes that Fitchburg's Plan and the Offer of Settlement are consistent with statewide energy efficiency goals that are required by G.L. c.25A § 11G and 225 C.M.R. § 11.00 et seq. (DOER Report at 2). Pursuant to G.L. c.25, § 19, which requires DOER to report to the Department on proposed funding levels for energy efficiency programs for investor-owned electric companies, DOER recommends approval of the 1998-2002 budget in Fitchburg's Plan (id. at 1-2). See Guidelines Supporting the Massachusetts Division of Energy Resources Energy Efficiency Oversight and Coordination Regulation, 225 C.M.R.§ 11.00 et seq.

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[1] The Department notes that Jerrold Oppenheim signed the Settlement on behalf of the Low-Income Energy Affordability Network, et al. The record indicates, however, that Mr. Oppenheim intervened on behalf of Action, Inc., Massachusetts Energy Directors Association, and Massachusetts Community Action Association.

II. STANDARDS OF REVIEW

A. Energy Efficiency Standard of Review

The Department is required to ensure that energy efficiency activities are delivered in a cost-effective manner utilizing competitive procurement processes to the fullest extent practicable. G.L. c. 25, § 19; G.L. c. 25A § 11G. The Department has established guidelines that, among other things, set forth the manner in which the Department would review ratepayer-funded energy efficiency plans in coordination with DOER, pursuant to G.L. c. 25, § 19 and G.L. c. 25A § 11G. Order Promulgating Final Guidelines to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000).

DOER has the authority to oversee and coordinate ratepayer-funded energy efficiency programs, consistent with specified goals, and is required to file annual reports with the Department regarding proposed funding levels for said programs. G.L. c. 25A § 11G; 225 C.M.R. §§ 11.00 et seq. If the DOER report concludes that ratepayer-funded energy efficiency programs are consistent with state energy efficiency goals, and if no objection to the DOER report is raised, the Department's review of the Plan is limited to cost-effectiveness issues and the use of competitive processes. Order Promulgating Final Guidelines to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100, at § 6.2 (2000); 225 C.M.R. § 11.2.

B. Settlement Standard of Review

In assessing the reasonableness of the settlement, the Department must review the entire record presented in the Company's filing and other record evidence to ensure that the

settlement is consistent with Department precedent and the public interest. See Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Eastern Edison Company, D.P.U. 88-100, at 9 (1989).

III. OFFER OF SETTLEMENT

The Settlement states that Fitchburg's Plan was developed as a result of collaborative efforts among the settling parties (Settlement at 3). Fitchburg's Settlement does not change the Company's Plan (Settlement at 9). Rather, the Settlement incorporates the Company's Plan and augments it to include performance incentives for successful energy efficiency activities for 1998-1999 and performance incentive goals for 2001 (Settlement at 3, 5-7, 9, App. B). The Settlement provides that Fitchburg shall earn a performance incentive for successful energy efficiency programs implemented during 2000 and determined according to the DTE Guidelines (Settlement at 6).[2] The Settlement also provides that Fitchburg will earn a performance incentive for its energy efficiency activities for the period January 2001 through December 2002 (Settlement at 6). The Settlement provides that the Company shall notify the settling parties and the Department of any major adjustment or supplement[3] to the Plan and provides for

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[2] The Company will file with the Department and DOER its proposed performance incentive for 2000, as well as a comparison of its 2000 energy efficiency programs to either NSTAR or National Grid's 2000 programs (Settlement at 6).

[3] The Settlement defines a "major adjustment or supplement" as starting or terminating a program or adjustment in the allocation of budgets among programs offered within a customer sector (i.e., non-low-income residential, low-income residential, or commercial and industrial) that cumulatively shifts more than 20 percent of the total sector budget (Settlement at 7).

a potential in-depth review of the adjustment or supplement if requested by a party to the Settlement (Settlement at 7). Last the Settlement states that the settling parties will continue to collaborate on program planning, design, implementation, and evaluation (id.).

IV. ENERGY EFFICIENCY PROGRAMS

A. Summary of Programs

Fitchburg's Plan proposes overall energy efficiency budgets of approximately $0.74 million in 1998, $1.44 million in 1999, $1.29 million in 2000, $1.61 million in 2001, and $1.62 million in 2002 (Plan, Table II-1). The Plan provides for shareholder incentives based on specified performance goals for the 1998-2002 program years[4] and the Settlement provides more specific program goals for the 2001 program year[5] (Plan, Table II-3; Settlement, Apps. B and C). The Plan provides for energy efficiency programs for residential and commercial-industrial ("C&I") customers, using four overlapping program types: the lost opportunity, market transformation, retrofit, and education approaches (Plan at I-3, I-4).

Lost opportunity programs are designed to capture savings during new construction, major renovation, and equipment purchase or replacement (i.e., when equipment purchase decisions are being made) (Plan at I-3). Market transformation programs, many of them statewide or regional in nature, are designed to overcome market barriers and to transform markets for energy efficiency by changing behaviors and practices of architects, designers,

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4 Section 5.3 of the DTE Guidelines specifies the maximum incentives allowed.

5 The Settlement provides that the settling parties will file specific program goals and incentive amounts for the 2000 and 2002 program years by March 31, 2002 (Settlement at 6-7).

retailers, marketers, manufacturers, and other utilities (Plan at I-3). Retrofit programs encourage the early replacement of existing electric equipment with high efficiency alternatives (Plan at V-11). Programs such as Design Lights Consortium and a program to transform building operation and maintenance ("O&M") practices feature educational components (Plan at I-4).

Residential programs include Energy Star Homes, Efficiency, Residential Conservation Service ("RCS"), Regional Lighting Initiative, Energy Star Appliances, Energy Star Trade-In (e.g., air conditioners and halogen torchiere lights), and Education (Settlement at 4). Residential Low-Income programs include: New Construction, Multi-Family, and Rehabilitation; In-Home Services; Products and Services; and Information and Education (id.). C&I programs include: Small C&I; Medium/Large C&I New Construction; Medium/Large C&I Retrofit; Premium Efficiency Motors; C&I HVAC (i.e., heating, ventilation, and air conditioning); C&I O&M Training; Design Lights; Compressed Air Systems; and Building Energy Codes (id.).

B. Cost-Effectiveness

The Company calculates several types of benefits to its energy system from its programs, including the value of avoided electric supply and reduced arrearages for low-income benefits (Plan, App. C). See DTE Guidelines at § 3.3.2. Similarly, the Company calculates benefits specific to program participants, including (1) the value of reduced consumption of heating oil and water and (2) benefits specific to low-income participants, such as reduced illness and fire hazards (Plan, App. C). See Id. at § 3.3.3.

The Company reports that using the total resource cost test required by the Department, all of its programs are cost-effective (Plan, App. C). See DTE Guidelines at § 3. In particular, Fitchburg estimates benefit/cost ("B/C") ratios on a multi-year integrated basis (from 1998 through 2012 and sometimes beyond) of 1.25 for Energy Star Homes, 1.38 for Residential Efficiency/RCS, 3.65 for Residential Lighting, 1.36 for Energy Star Appliances, 1.38 for Torchiere/Room AC Trade-In, 2.03 for Low-Income programs jointly, 1.51 for Small C&I, and 2.67 for C&I Comprehensive Efficiency (which comprise the other C&I programs) (Plan, V-19; Plan, App. C, Tables C-1 to C-8). To estimate the benefits of the savings from its programs, the Company uses prices from the July 1999 Avoided Electric Supply Costs Study (Plan, App. C, Tables C-1 to C-8).

C. Competitive Procurement

The Company reports that outsourcing accounts for 100 percent of implementation expenses, which is half of total expenses(Plan, App. A, Table 3). The Company also reports that outsourcing accounts for 82 to 83 percent of marketing, evaluation, and market research expenses, as well as 65 percent of program planning expenses (id.). In addition, the Company reports that 100 percent of outsourced services are competitively bid (id.).

V. ANALYSIS AND FINDINGS

The Company provided expected B/C ratios for its proposed programs for the years 2000-2002, showing that all B/C ratios are greater than 1.00. When the benefits of programs exceed the costs, the programs are cost-effective. DTE Guidelines at § 3.5. The Department reviewed the method by which the Company determined the benefits and costs for its programs

and finds that the benefits and costs were determined consistent with Department criteria for establishing program cost-effectiveness. DTE Guidelines at §§ 3-4. Accordingly, the Department finds that, based upon the assumptions used in its analysis, the Company's programs are cost-effective.

The Company provided evidence that it outsources all of its program implementation and almost all of its marketing, evaluation, and market research. In addition, it provided evidence that it competitively procures all of its outsourced goods and services for energy efficiency programs. Accordingly, the Department finds that the Plan provides for competitive procurement to the fullest extent practicable. Based on DOER's conclusion that the Plan is substantially consistent with the statewide energy efficiency goals, and the findings above that the programs are cost-effective and use competitive procurement to the fullest extent practicable, the Department approves the Company's Energy Efficiency Plan for the years 1998-2002.

DOER found that the Settlement, in conjunction with the Plan, adequately addresses the Commonwealth's energy efficiency goals. Since the Settlement augments the Plan and furthers the Commonwealth's energy efficiency goals, the Settlement is in the public interest. Further, as the energy efficiency measures contained in the Plan, and augmented by the Settlement, are similar to those previously approved by the Department, the Settlement is consistent with Department precedent. Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company, D.T.E. 00-63 (2001); Massachusetts Electric Company and Nantucket Electric Company, D.T.E. 00-65 (2001).

Fitchburg uses the same price projections used by the NSTAR companies and Massachusetts Electric Company, whose energy efficiency plans the Department approved in D.T.E. 00-63 and D.T.E. 00-65. In those Orders, the Department found that, as a result of their reliance on the July 1999 Avoided Electric Supply Costs Study, the benefits of those companies' programs were likely to be even greater than those companies estimated in their Plans. D.T.E. 00-63, at 6-7; D.T.E. 00-65, at 7-8. As a result, the Department directed the NSTAR Companies and Massachusetts Electric Company to estimate benefits more accurately in their Energy Efficiency Annual Reports. Id. Likewise, in order to improve the accuracy of its cost-effective analyses, the Department directs Fitchburg to use, to the extent reasonable, actual prices for past program years and best available price projections for future program years in the calculation of program benefits.

Finally, the Department notes that DOER is a party to D.T.E. 98-48/49-Phase II, but not to the Settlement, and is charged by G.L. c. 25A § 11G with oversight of energy efficiency programs. Accordingly, the Department directs the Company to notify not only parties to the Settlement, but also the other intervenors in this case, including DOER, of major adjustments or supplements to the Plan.

VI. ORDER

Accordingly, after due notice, opportunity for public comment, and consideration, it is:

ORDERED: That the Petition of Fitchburg Gas and Electric Light Company for approval of its five-year energy efficiency program is APPROVED; and it is

FURTHER ORDERED: That the Offer of Settlement filed by Fitchburg Gas and Electric Light Company, the Northeast Energy Efficiency Council, Action, Inc., Massachusetts Energy Directors Association, and Massachusetts Community Action Association is hereby APPROVED; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company follow all other directives contained in this Order.

By Order of the Department,

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James Connelly, Chairman

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).