KEEGAN WERLIN LLP

ATTORNEYS AT LAW
265 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110-3113

(617) 951-1400

TELECOPIERS:
(617) 951-1354
(617) 951-0586

May 26, 2005

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Bay State Gas Company, D.T.E. 05-27

Dear Secretary Cottrell:

Enclosed for filing please find an original and seven (7) additional copies of the Petition for Leave to Intervene of KeySpan Energy Delivery New England in the above-referenced case.

Thank you for your attention to this matter.

Very truly yours,

Robert J. Keegan

Encl.

cc: Caroline Bulger, Hearing Officer
Andrew Kaplan, General Counsel
John Cope-Flanagan, Assistant General Counsel
George Yiankos, Director, Gas Division
Robert Dewees, Esq.
Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Bay State Gas Company	)	D.T.E. 05-27

PETITION FOR LEAVE TO INTERVENE OF
KEYSPAN ENERGY DELIVERY NEW ENGLAND

Pursuant to G.L. c. 30A, § 10 and 220 CMR § 1.03, KeySpan Energy Delivery New England[1] ("KeySpan" or the "Company") hereby petitions the Department of Telecommunications and Energy (the "Department") for leave to intervene as a full party in the above-referenced proceeding. In support of this motion, KeySpan states the following:

1. KeySpan is a gas company, as defined in G.L. c. 164, § 1, and is regulated by the Department pursuant to G.L. c. 164, § 1 et seq.
2. KeySpan maintains its principal offices at 52 Second Avenue, Waltham, Massachusetts 02451,
3. On April 27, 2005, Bay State Gas Company ("Bay State") filed a request for approval of a $22.2 million increase in base rates, a Performance-Based Regulation ("PBR") plan, a steel infrastructure and replacement adjustment ("SIR") and a pension/PBOP reconciliation mechanism.
4. The Department docketed this proceeding as D.T.E. 05-27 and suspended the effective date of the requested rates until December 1, 2005.

[1] The local gas distribution companies in Massachusetts that operate as KeySpan Energy Delivery New England are Boston Gas Company ("Boston Gas"), Colonial Gas Company ("Colonial") and Essex Gas Company ("Essex").

5. The Department may allow any person that "may be substantially and specifically affected" by a proceeding to intervene as a party. G.L. c. 30A, § 10; see also 220 C.M.R. § 1.03(1).

6. When ruling on a petition to intervene, the Department may consider, among other factors, "the nature of the petitioner's evidence, including whether such evidence will help to elucidate the issues of the proceeding." Eastern Edison Company, D.P.U. 96-24, at 4-5 (1997).[2] See also Boston Edison Company, D.T.E. 98-118/119/126, at 9-10 (1999); Western Massachusetts Electric Company, D.T.E. 01-36/02-20, at 6 (2003).

7. KeySpan is substantially and specifically affected by this proceeding because:

   a. In this proceeding, the Department will investigate and make findings on issues relating to a PBR plan, a pension/PBOP mechanism and the Bay State Steel Infrastructure Replacement ("SIR") program. The Department's findings may be applied to the Company in the future. For example, the Department has previously declined to review a gas company's PBR plan where it is at the same time reviewing another gas company's PBR plan that "would be instructive for all distribution companies" with regard to the policies, methods, and procedures that may be

---

[2] In D.P.U. 96-24, the Department identified factors such as the interests of the petitioner, whether the petitioner's interests are unique and cannot be raised by any other petitioners, the scope of the proceeding and the potential effect of the petitioner's intervention on the proceeding. Id. at 4-5.

developed. Fitchburg Gas and Electric Light Company, D.T.E. 02-22, at 3-4 (2003).

b. In addition, the Department will investigate and make findings on a range of ratemaking and rate design issues that may be applied to Keyspan in the future. See, e.g., Id. (establishing approach for marginal-cost analysis); Berkshire Gas Company, D.T.E. 01-56 (2002) (accounting for gas-marketing costs).

c. KeySpan must be permitted to protect its rights with regard to all rate issues that are developed during this rate case that will have precedential effect for KeySpan. KeySpan's interest concerning these issues, and the impact of the Department's decisions on KeySpan's operations, are unique to the Company and cannot be adequately represented by any other party.

8. KeySpan has evidence, knowledge and experience that will help to elucidate the issues of this proceeding and serve the public interest in establishing a clear and thorough record. For example, Boston Gas completed a five-year PBR plan approved by the Department in Boston Gas Company, D.P.U. 96-50 (Phase I) (1996) and is currently operating under a 10-year PBR plan approved by the Department in Boston Gas Company, D.T.E. 03-40 (2003). Essex and Colonial are currently operating under 10-year rate freeze plans, as approved by the Department in Eastern Enterprises/Essex County Gas Company, D.T.E. 98-27 (1998) and Eastern Enterprises/Colonial Gas Company, D.T.E. 98-128 (1999),

respectively. Bay State's PBR proposal includes many elements and characteristics that are common to KeySpan's PBR plans, as implemented. Given KeySpan's extensive experience with PBR plans, it is in a unique position to elucidate these issues with additional evidence. See *Interlocutory Order on Appeal of Hearing Officer Ruling*, Western Massachusetts Electric Company, D.P.U. 88-250, at 5 (March 21, 1989) (Allowing SESCO motion to intervene as a full party because it is in a unique position to contribute to the development of the record).

9. KeySpan has a pension/PBOP reconciliation mechanism in place that was approved by the Department in Boston Gas Company, D.T.E. 03-40, at 2 (2003). Bay State's PBR proposal includes many elements and characteristics that are common to KeySpan's pension/PBOP reconciliation mechanism, as implemented. The Company has considerable experience, expertise and evidence that it can introduce to contribute to the development of the record on this issue.

10. The Department's longstanding precedent has been to allow full-party intervenor status to sister utilities in gas and electric company cases that involve common issues among other regulated utilities. See Boston Gas Company, D.T.E. 03-40, at (2003) (granting full-party intervenor status to Bay State Gas Company and Berkshire Gas Company in general rate case); Bay State Gas Company, D.P.U. 89-81 (1989) (granting full-party intervenor status to Colonial Gas Company, Boston Gas Company and Massachusetts Municipal Wholesale Electric Company in general rate

case); Massachusetts Electric Company/New England Power Company, D.P.U. 91-114/EFSC 91-24 (1991) (granting full-party intervenor status to Fitchburg Gas and Electric Light Company, Boston Edison Company and Western Massachusetts Electric Company in IRM case); and Western Massachusetts Electric Company, D.P.U. 92-88 (1992) (granting full-party intervenor status to Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company in IRM case).

11. The Company is represented by regulatory counsel who are knowledgeable in the practices and procedures of the Department, and who will not impede the efficient consideration of the case.

12. The Company has contacted counsel for Bay State and the Attorney General concerning its request for full-party intervenor status and both have authorized the Company to represent that there is no objection to the Company's request for full-party intervenor status.

WHEREFORE, KeySpan respectfully requests that the Department grant this petition for leave to intervene and take such other necessary actions as may be appropriate.

Respectfully submitted,

KEYSPAN ENERGY DELIVERY NEW ENGLAND

By its attorneys,

Robert J. Keegan, Esq.
Cheryl M. Kimball, Esq.
Keegan Werlin, LLP
265 Franklin Street
Boston, MA 02110
(617)951-1400

and

Thomas P. O'Neill, Esq.
KeySpan Energy Delivery New England
52 Second Avenue
4th Floor
Waltham, MA 02451
(781) 466-5136

Dated: May 26, 2005.