COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

The Berkshire Gas Company	)	D.T.E. 06-27

REPLY BRIEF OF THE BERKSHIRE GAS COMPANY

On June 2, 2006, The Berkshire Gas Company ("Berkshire" or the "Company") filed its Initial Brief in this proceeding pursuant to the procedural schedule established by the Hearing Officer. The Company's Initial Brief demonstrated that the Sales Agreement, as defined in the Initial Brief, between Berkshire and Coral Energy Resources, L.P. ("Coral") satisfied relevant Department standards with respect to gas supply contracts. See Commonwealth Gas Company, D.P.U. 94-174-A (1996); The Berkshire Gas Company, D.T.E. 05-58 (2006). Specifically, the Company's Initial Brief and evidentiary presentation demonstrated that the Sales Agreement was consistent with the public interest because the addition of this resource was consistent with the Company's "portfolio objectives" and the Sales Agreement "compares favorably to the range of alternative options reasonably available to the Company and its customers." Co. In. Br., pp. 6-7.

The Attorney General of the Commonwealth of Massachusetts (the "Attorney General") filed his Initial Brief addressing two limited issues on June 2, 2006. This Reply Brief of the Company responds to the limited arguments in the Attorney General's Initial Brief.

First, the Attorney General suggests that the addition of the Sales Agreement to the Company's resource portfolio will somehow result in an inappropriate level of capacity. AG In. Br., p. 2. The Attorney General relies only upon a generic statement that compares demand levels on a peak day to the Company's resources which shows adequate resources to meet demand. The Attorney General categorizes this as an "excess." AG In. Br., p. 2.

In fact, the evidentiary record shows that the Company's resource portfolio continues to be appropriate and reasonable. Jennifer M. Boucher, the Company's witness, explained that the

Company maintains "an appropriate mix of resources" and that the resource mix including the Sales Agreement "is consistent with prior filings made for a forecast and supply plan." Tr. 35. Ms. Boucher went on to explain that a substantial portion of the Company's peak day capacity is served by propane facilities (approximately 8%). Exh. DTE 1-1. Ms. Boucher explained that this resource applies older, mechanical equipment and involves concerns with securing propane and adequate delivery service. Tr. 35. Exh. DTE 1-13 (Attach. a); Exh. DTE 1-14. The Company also explained that "mixing" limitations for propane affect the ability of the Company to employ this resource because it may not be available on non-peak days. Exh. DTE 1-14; Exh. BG-1, p. 7.

The Company also maintains a number of features to optimize its portfolio. The Company has maintained a long-term alliance to optimize the Company's resource portfolio through off-system sales and capacity release transactions. Tr. 28; see also The Berkshire Gas Company, D.T.E. 04-47 (2004); The Berkshire Gas Company, D.T.E. 02-19 (2002); The Berkshire Gas Company, D.T.E. 01-41 (2001). This alliance structure has secured substantial benefits for the Company's customers. In addition, the Sales Agreement itself includes a mandatory "sellback" feature that requires Coral to re-purchase volumes available pursuant to the Sales Agreement but not required by the Company. Exh. BG-4; Tr. 28. Importantly, all revenues from this saleback feature will be credited to the Company's customers. Exh. AG 1-2. In sum, the company maintains an extremely flexible and responsive resource portfolio.

More importantly, the Company's petition involves a replacement resource. The Sales Agreement, together with the transportation resource approved in Berkshire Gas, D.T.E. 05-58, do not materially alter the level of resources available to meet the Company's peak day requirements. Tr. 26-27; Exh. DTE 1-1. The Department found that this same level of resources with the formerly available Fuel Purchase Agreement was, in fact, a required resource to meet the Company's design standards. Exh. DTE 1-1. The Company also explained that the need to secure replacement resources such as the Sales Agreement was described in detail in the Company's Forecast and Supply Plan filed January 31, 2005 in docket D.T.E. 05-7. Id. There has been no material change to the Company's forecast (Tr. 28-29), accordingly the Sales Agreement is, by definition, consistent

with the Company's portfolio objectives. In sum, the Company's efforts to secure a replacement resource such as the Sales Agreement will enable the Company to maintain a resource portfolio that is comparable to that which has been repeatedly reviewed and accepted by the Department. See, e.g., The Berkshire Gas Company, D.T.E. 02-17 (2003); Berkshire Gas, D.T.E. 05-58.

The Department has also expressly held that the consideration of whether a Company maintains "surplus capacity" is not an appropriate issue in a Section 94A proceeding. See Commonwealth Gas, D.P.U. 94-174-A, p. 30. The Department indicated prudence of resource management is properly considered, in terms of cost recovery, in a rate case or CGAC proceeding (Id.), and, substantively in a forecast and supply proceeding. Accordingly, the Department need not address the Attorney General's assertions with respect to reliability levels at all in this proceeding.

The Department should, therefore, reject the Attorney General's unfounded assertions that the Company's resource portfolio is not appropriate and find that the Sales Agreement is consistent with the Company's portfolio objectives.

Second, the Attorney General noted within his Initial Brief that there are certain issues that the Hearing Officer directed the parties to address in separate procedural filings to be submitted by the Company on this date and by the Attorney General on June 20, 2006. The Company's Motion for the Department to (i) Maintain the Appropriate Scope of Proceeding, (ii) Grant Summary Judgment, or (iii) for Such Other Relief as May be Necessary and Appropriate filed with this Reply Brief demonstrates that the Attorney General's arguments are misplaced and inappropriate for this proceeding. Accordingly, for the reasons stated in such motion, the Department should issue such orders as to define and maintain the appropriate scope of this proceeding, grant summary judgment and approve the Sales Agreement as being in the public interest.

In sum, the Company demonstrated that the Sales Agreement was consistent with the Company's portfolio objectives and compared favorably to the range of alternative options reasonably available to the Company and its customers. The Attorney General has raised only a single substantive claim that, in fact, is contrary to the record evidence and prior findings of the Department. The Department should reject this erroneous and misplaced argument and find that the

Sales Agreement is in the public interest, approve the execution of the Sales Agreement and take such other action as may be necessary and appropriate.

Respectfully submitted,

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