COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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FITCHBURG GAS AND ELECTRIC)

LIGHT COMPANY, Petition for) DOCKET NO. 99-32

Exception Pursuant to 220 C.M.R. 6.12)

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FITCHBURG GAS AND ELECTRIC LIGHT COMPANY'S

REPLY BRIEF

In his Initial Brief filed on August 2, 1999, the Attorney General agreed that Fitchburg Gas and Electric Light Company's ("the Company" or "FG&E") proposed method of financing its gas inventory is reasonable, and that FG&E should be granted an exception pursuant to 220 C.M.R. § 6.12 to the Department's requirement that a utility establish a trust or other financing vehicle to finance its interest on gas inventory. AG Initial Br., pp. 3 and 4.

The Attorney General only raised two subsidiary issues regarding the implementation FG&E's method of financing: (1) that the Company's proposal to charge customers an interest rate composed of FG&E's annualized average monthly borrowing rate under the Unitil Cash Pooling and Loan Arrangement, should be given only conditional approval because "circumstances could arise which might require a return to the BankBoston prime rate" (AG Initial Br. at 4); and, (2) that FG&E's request that its proposed method of financing be made effective on November 30, 1998, is retroactive and therefore contrary to law. AG Initial Br. at 4.

The Department should reject both of these conditions, and approve FG&E's proposal as filed. The Attorney General's proposed "conditional" approval is unnecessary and is unsupported by record evidence. The second condition, that the Department should not make the exception effective November 30, 1998 because it would be retroactive ratemaking, is incorrect. Fuel inventory financing charges are a component of the Cost of Gas Adjustment Clause ("CGAC"), which is a reconciling mechanism. Making the effective date November 30, 1998 permits FG&E to reconcile fuel inventory financing costs consistent with the treatment of all other costs under the CGAC and consistent with

the treatment given to other Companies with respect to their fuel inventory financing charges collected through the CGAC. These arguments are presented fully below.

I. UNCONDITIONAL APPROVAL, NOT CONDITIONAL APPROVAL, IS APPROPRIATE FOR FG&E'S PROPOSED INTEREST RATE.

The Attorney General did not specify what circumstances could arise "which might require a return to the BankBoston prime rate", nor did he cite to any record evidence supporting his argument that such circumstances, whatever they might be, could arise. AG Initial Br. at 4. Additionally, the Attorney General did not explain why the Department's authority would be inadequate to make any changes to FG&E's method of financing its gas inventory if such circumstances arise, or why only conditional approval is necessary for FG&E's proposal rather than the unconditional approval requested by FG&E.

Because there is no record evidence of a particular harm or "circumstances" that could arise, or even an identification by the Attorney General of what that harm could be, the Department has no reasoned basis nor record evidence for granting only conditional authority. Further, if the Department were to determine at some point in the future that FG&E's method of financing its fuel inventory is no longer consistent with the public interest, it could investigate and make any orders consistent with the public interest and the Department's authority. Therefore, the Department should reject the Attorney General's recommendations, and instead grant unconditional approval of FG&E's proposed method of financing its gas inventory.

II. FG&E'S REQUEST DOES NOT CONSTITUTE RETROACTIVE RATEMAKING

In D.T.E. 98-51, the Department found that "the Company's method of financing its gas inventory does not comply with [220 C.M.R.] § 6.06." Order, 98-51, p. 21 (Nov. 30, 1998). Contrary to the Attorney General's assertion, the Department's Order did not conclude that "at least since 1987, the Company's inclusion of interest on inventory as part of its CGAC filings was a violation of its CGAC regulations." See AG Initial Br. at 2.

As a result of the Department's finding in D.T.E. 98-51, the Department ordered FG&E either to petition the Department for approval of a financing vehicle or trust, or to petition the Department for an exception under 220 C.M.R. § 6.12. Order, 98-51, p. 22. Again contrary to the Attorney General's assertion, the Department did not advise FG&E that it could not "lawfully charge customers interest on inventory through the CGAC" until obtaining approval of a trust or an exception. AG Initial Br. at 2. Nevertheless, FG&E removed its inventory interest charges from its CGAC until such time as it obtained approval of a trust of other financing vehicle, or an exception.

Some form of gas cost adjustment mechanism has existed in Massachusetts since the 1940s. Essex County Gas Company, D.P.U. 93-225, p. 19 (June 30, 1994). The purpose of such a mechanism is to accommodate fluctuations in gas prices from those embedded in a company's base rates, eliminating the need to have a rate case in order to set rates based on the latest gas costs. Id.; 220 C.M.R. § 6.01. The current seasonal CGAC mechanism was developed in Generic CGAC investigation, D.P.U. 1669-C (1987). In order to recognize the seasonality of gas costs, the clause contains two components: (1) a Gas Adjustment Factor ("GAF") containing costs projected to be incurred on a year-round basis, which is billed evenly throughout the year; and, (2) a supplemental GAF containing costs projected to be incurred to serve peak season demand, which is billed only from November through April. Essex County Gas Co., supra, at 20; 220 C.M.R. § 6.06. The projected charges are reconciled annually with historic costs. Essex County Gas Co., supra, at 20. Projected inventory finance charges are a component of the CGAC. 220 C.M.R. § 6.06. Reconciling the projected costs and charges with actual costs and charges therefore does not violate retroactive rate principles. The Attorney General's assertion, that the Department's regulations permitting inventory interest charges are solely prospective, (AG Initial Br. at 4), is contrary to the clear reconciling purpose of the CGAC mechanism.

As the Department is aware, this Fall is the ordinary time for FG&E to file as part of its CGAC filing a reconciliation of fuel inventory financing charges for the prior year period as well as projections of the next year's fuel inventory interest charges. FG&E's request that the Department's approval of its proposed method of financing be effective November 30, 1998 is necessary so that the Company will know what rate to use in its reconciliation calculation. Further, FG&E requests the Department's approval of its proposed method of financing by September 3, 1999, to allow FG&E sufficient time to forecast the appropriate financing charges for the next year period for inclusion in the CGAC filing for that period. Therefore, FG&E respectfully requests that the Department approve FG&E's proposed method of financing its gas inventory by September 3, 1999, for effect November 30, 1998.

WHEREFORE, for the reasons stated herein, FG&E respectfully requests that the Department reject the two conditions recommended by the Attorney General. Further, FG&E requests that the Department find that the Company's proposed method of financing its gas inventory is more cost-effective for ratepayers than establishing a trust or other financing vehicle, and grant FG&E an exception pursuant to 220 C.M.R. § 6.12, as recommended by the Company and the Attorney General. Therefore, FG&E respectfully requests that the Department grant an exception effective November 30, 1998, and issue its order by September 3, 1999 in order to allow the Company sufficient time to reconcile and project the approved interest charge in its Fall CGAC filing.

Respectfully submitted,

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