March 7, 2002

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: Boston Edison Company, DTE 01-108

Dear Secretary Cottrell:

Pursuant to the procedural schedule issued by the Hearing Officer, the Attorney General files this Reply Brief for the purpose of responding to arguments made in the Initial Briefs submitted by the Boston Edison Company ("BECo" or "Company") and the Massachusetts Water Resources Authority ("MWRA") in this proceeding on February 28, 2002. This Reply Brief is not intended to respond to every argument made or position taken by either the Company or the MWRA. Rather, it is intended to respond only to the extent necessary to assist the Department of Telecommunications and Energy ("Department" or "DTE") in its deliberations, i.e., to provide further information, to correct misstatements or misinterpretations, or to provide omitted context. Therefore, silence by the Attorney General in regard to any particular argument, assertions of fact, or statement of position in any party's brief should not be interpreted, construed, or treated as assent, acquiescence or agreement with such argument, assertion or position. In the Initial Briefs, both the MWRA and BECo discuss Department decisions related to rate evolution of Rate WR. MWRA Initial Brief, pp. 2-5, 12-18; BECo Initial Brief, pp. 2-5). The Attorney General provides the following elaboration on related precedent to help frame the issues relevant to the Company's petition to revise Rate WR.

Historically, the Department has disfavored inappropriate price signals and intergenerational inequities. *Commonwealth Electric Company*, D.P.U. 94-3A, p.14 (1994) (approving a fuel stabilization rate); *Massachusetts Electric Company*, D.P.U. 95-40, p.63 (1995) (approving an amortization on grounds of inter-generational equity); *New England Telephone Company, dba Bell Atlantic*, D.T.E. 97-67 (1998) (discussing the return of pay phone subsidies ordered by Federal

Communications Commission). In this proceeding, the Department must examine an intercustomer subsidy since BECo's electric distribution customers are subsidizing the MWRA's sewage treatment customers. These two groups of customers consist of different members and use distinctly different types of utility services. *Compare* RR-AG-2 (cities and towns served by BECo's electric distribution system) *and* RR-AG-5 (cities and towns served by the MWRA's sewage treatment facilities).

The Restructuring Act expressly requires a "non-bypassable" transition charge. G.L. c. 164, §1G(a)(1). The Department has consistently applied the transition charge on a uniform basis.[1] *E.g., Cambridge and Commonwealth Electric Companies,* D.T.E. *97-111*, p. 90 (1998) (approving uniform transition charge). Since the inception of the transition charge and restructured rates the MWRA has not been assessed the full, uniform transition charge.[2] The resulting short fall has been included as an annual "under-collection"component that is rolled into subsequent years' transition charges that other customers of BECo pay. The Department has not allowed this type of subsidization in any other case. For example, the Western Massachusetts Electric Company proposed to discount the uniform transition charge to its low income customers. The Department rejected this request and required the uniform rate. *Western Massachusetts Electric Company*, D.T.E. 97-120, pp. 168-169. Fitchburg Gas & Electric Light Company initially proposed that a special contract customer paying an undiscounted, cost based, G-3 rate pay a transition charge that varied from the uniform rate. The utility procured energy for this customer under an arrangement separate and distinct from its other

---

[1] The Department stated that:

> [A]ny stranded cost recovery mechanism should provide for a <u>non-discriminatory</u> charge that cannot be bypassed. [D.P.U. 95-30] at 30. In other words, customers cannot be insulated from Department directives regarding restructuring. As the Department has stated, "[o]ne customer class may not reap the benefits [of restructuring] at the expense of another." Id. at 15. Therefore, Fitchburg's restructuring proposal must include a stranded cost recovery mechanism applicable to all customers, including EBS customers. We expect that to the extent that the Company's restructuring plan contains a stranded cost charge, consistent with the principle enunciated in D.P.U. 95-30 that stranded cost recovery mechanisms shall be non-bypassable and non-discriminatory, such stranded cost charge will apply to all customers, including EBS customers. [Emphasis added.]

Fitchburg Gas & Electric Light Company, D.P.U. 95-75, p. 21 (1995).

[2] The MWRA has saved over $6 million dollars since March 1998 by paying less than the full uniform transition charge. Under the proposed revised Rate WR, which applies the uniform transition charge, the MWRA would still save approximately $800,000 by leaving the standard offer and receiving competitive generation.

customers.[3] The Department disallowed the implementation of any transition charge that was not based on the application of the uniform rate. *Fitchburg Gas and Electric Light Company*, DTE 99-15/99-120, pp. 47-48 (1999). Recently, the Department has approved increases to transition charges without regard to the impact on customers served by competitive suppliers. *Western Massachusetts Electric Company*, DTE 01-101 (2001) (approving a 154% increase in the uniform transition charge from .535¢ to 1.357¢).

The Department should consider this precedent when evaluating the request of BECo to revise Rate WR.

Sincerely,

Alexander J. Cochis
Assistant Attorney General

cc: service list

[3] Fitchburg Gas & Electric Light Company made the argument that this customer did not contribute to stranded costs, and therefore, should not be assessed the transition charge. The Department did not accept this argument and required a uniform transition charge. In a subsequent order, the Department also required that the utility offer this customer the standard offer supply in order to comply with the restructuring laws. *Fitchburg Gas & Electric Light Company*, D.T.E. 99-15/99-120-A, pp. 2-3 (1999).