



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 13-58

April 24, 2013

Petition of Blackstone Gas Company, pursuant to General Laws Chapter 164, § 94, and 220 C.M.R. §5.00 et seq. for approval of a rate settlement effective May 1, 2013.

APPEARANCES: Andrew J. Newman, Esq.
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FOR: Blackstone Gas Company
Petitioner

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ORDER ON OFFER OF SETTLEMENT

I. INTRODUCTION

On March 5, 2013, Blackstone Gas Company (“Blackstone” or “Company”) filed with the Department of Public Utilities (“Department”) pursuant to General Laws Chapter 164, § 94, and 220 C.M.R. § 5.00 et seq. for approval of a rate settlement agreement (“Settlement”) between the Company and the Attorney General of the Commonwealth of Massachusetts (“Attorney General”) effective April 1, 2013. In addition, the Company included in its filing testimony and schedules intended to support a total annual base distribution rate increase of \$120,000 that the Company would implement in two steps.¹ On March 11, 2013, the Department issued an Order suspending the effective date of the rates and charges set forth in the Settlement Agreement to June 1, 2013. On March 27, 2013, the Company and the Attorney General (the “Settling Parties”) filed an amendment to the Settlement that provides that the Settlement terms become effective on or before May 1, 2013 (“Amended Settlement”). On March 29, 2013, the Company and the Attorney General filed a Joint Motion for Approval of the Settlement Agreement, as amended on March 27, 2013.

On April 10, 2013, pursuant to notice duly issued, the Department conducted a public hearing in Blackstone. The Department received no petitions to intervene or participate in the proceeding. The evidentiary record consists of 16 exhibits.²

¹ At the request of the Hearing Officer, the Company submitted corrected illustrative tariffs and customer bill impacts by rate class on March 8, 2013, and a proposed bill message insert on March 12, 2013.

² The Department hereby moves and admits into evidence the following: the Settlement including attachments and schedules (Exh. Blackstone-1), the Amended Settlement including attachments and schedules (Exh. Blackstone-2); the prefiled testimony of Lee

II. THE AMENDED SETTLEMENT

The Company states that the Amended Settlement is based on a cost of service study (“COSS”) that uses as a test year calendar year 2011(Exh. DPU 1-1). The Amended Settlement proposes that the Company implement a two-step increase to annual base distribution revenues of \$80,000 on May 1, 2013, and an additional increase of \$40,000 in annual base distribution rates on November 1, 2013 (Exh. Blackstone-2, at § 1.3(B)). The Amended Settlement states that the proposed increase in revenues is in lieu of the Company’s filing a general rate case for Department adjudication in which the Company claims that it would have sought an approximately \$180,000 increase to its distribution revenue (id.).

If the Amended Settlement filed by the Company is approved as requested, the Company states that the monthly bill impacts for ratepayers will be as follows:

RATE CLASS	Phase I – Off Peak Season (May – October)	Phase II – Peak Season (November – April)	Phase II – Off Peak Season (May – October)
R-1: Residential non-Heating	\$1.38 (4.86 %) based on 15 CCF ³ consumption	\$0.88 (2.41%) based on 20 CCF consumption	\$0.66 (2.21%) based on 15 CCF consumption
R-3 Residential Heating	\$1.84 (4.20%) based on 25 CCF consumption	\$4.09 (2.12%) based on 150 CCF consumption	\$0.68 (1.50%) based on 25 CCF consumption
G-1 General Service	2.07% - 3.26% depending on usage	1.14% - 1.87% depending on usage	1.15% - 2.16% depending on usage

Source: Exh. Blackstone-3

Smith (Exh. Blackstone-LS); illustrative tariffs and bill impacts (Exh. Blackstone-3); and the responses to the Department’s information requests (Exhs. DPU 1-1 through 1-11, DPU 2-1, and DPU 2-2).

³ CCF is a measurement of natural gas usage in 100 cubic feet.

The Amended Settlement provides that for purposes of calculating the allowance for funds used during construction, the purchased gas working capital allowance, and any other components of the cost of gas adjustment clause where a rate of return is required, a rate of 9.25 percent shall be used for common equity, and an effective rate of 5.34 percent shall be used for long-term debt (Exh. Blackstone-2, at § 2.3).

The Amended Settlement provides that the Company shall not file for approval of any new base rate, formula rate, tariff, or charges, including but not limited to earnings sharing mechanisms, capital trackers, or revenue decoupling mechanisms under G.L. c. 164, § 94 to be effective prior to November 1, 2016, unless specifically mandated by statutes enacted after the date of the Amended Settlement Agreement (Exh. Blackstone-2, at § 3.3).

The Amended Settlement provides that its provisions are not severable. Should the Department not approve the Settlement in its entirety by May 1, 2013, the Amended Settlement provides that it shall be deemed withdrawn and shall not constitute any part of the record in this proceeding or for any other purpose (Exh. Blackstone-2, at § 4.7).

III. STANDARD OF REVIEW

In assessing the reasonableness of an offer of settlement, the Department reviews all available information to ensure that the settlement is consistent with Department precedent and the public interest. Fall River Gas Company, D.P.U. 96-60 (1996); Essex County Gas Company, D.P.U. 96-70 (1996); Boston Edison Company, D.P.U. 92-130-D at 5 (1996); Bay State Gas Company, D.P.U. 95-104, at 14-15 (1995); Boston Edison Company, D.P.U. 88-28/88-48/89-100, at 9 (1989). A settlement among the parties does not relieve the Department of its statutory

obligation to conclude its investigation with a finding that a just and reasonable outcome will result. D.P.U. 95-104, at 15; D.P.U. 88-28/88-48/89-100, at 9.

It is well established that the Department's goals for utility rate structure are efficiency, simplicity, continuity, fairness, and earnings stability. D.P.U. 95-104, at 15; Bay State Gas Company, D.P.U. 92-111, at 283 (1992); see also Massachusetts Electric Company, D.P.U. 95-40, at 144-45 (1995). The Department has previously accepted settlements that include cost allocation and/or rate design when such settlements were consistent with the Department's goals. D.P.U. 96-60; D.P.U. 96-70; D.P.U. 95-104, at 15; Massachusetts Electric Company, D.P.U. 91-52 (1991).

IV. ANALYSIS AND FINDINGS

The Department's authority to consider and approve rates through settlements derives from statute: G.L. c. 164, §§ 76, 93, 94. Rates and related matters approved under this broad discretionary authority must conform to the requirements of statute, i.e., must be "just and reasonable" and "consistent with the public interest" in order to warrant Department approval. Regulatory requirements develop over time and adapt to economic factors, industry structure, market conditions, and public interest considerations. See e.g., American Hoechst Corporation v. Department of Public Utilities, 379 Mass. 408, 411-413 (1980) (the Department is free to select or reject particular method of regulation as long as its choice is not confiscatory or otherwise illegal).

Subject to judicial oversight under G.L. c. 25, § 5, the Department is vested by Chapter 164 with authority to determine the public interest in reviewing settlements. Western Massachusetts Electric Company, D.T.E. 06-55, at 19 (2006); Boston Edison Company,

Cambridge Electric Light Company, Commonwealth Electric Company, NSTAR Gas Company, D.T.E. 05-85, at 29 (2005). Approving a settlement that departs in some way from an enunciated Department policy may be appropriate in order to accommodate the balancing of multiple factors and issues in seeking a result that is in the public interest. However, no settlement proposal or Department approval of such settlement can supersede or supplant the Department's statutory authority or obligations. D.T.E. 05-85, at 30. Thus, while the Department will not lightly disturb the provisions of an approved settlement, settlement provisions remain subject to adjustment as a result of future proceedings as the public interest may require. Id.

The Amended Settlement provides for an increase of \$80,000 in rates over the currently-effective rates beginning May 1, 2013, with a further \$40,000 increase in distribution rates on November 1, 2013 (Exh. Blackstone-2, at § 1.3 (B)). The Company explains that the proposed increases are in lieu of the Company's filing for adjudication of a proposed distribution rate case increase adjustment, where it would have sought an increase in its distribution revenue of approximately \$180,000 based on the Company's 2011 COSS (id.).

The Department has evaluated the provisions of the Amended Settlement, in addition to information submitted by the Settling Parties in attachments, schedules, and responses to information requests. Such evidence includes representations of the Company's financial conditions and information regarding its rate structures and conditions.

In evaluating the provisions of this Amended Settlement, the Department finds that the proposed rates are just and reasonable and are in the public interest because: (1) the revenues that the Company will collect in rates pursuant to the Amended Settlement likely would be no higher than rates that would result from fully adjudicating a rate case; and (2) the Amended

Settlement avoids litigation costs that would result in increased costs to the Company's customers. Fitchburg Gas and Electric Light Company, D.T.E. 06-109, at 8-9 (2007); see also Blackstone Gas Company, D.T.E. 01-50, at 23 (2001). Based on our review, the Department finds that the Amended Settlement represents an acceptable balance of multiple factors related to cost allocation, rate structure principles of efficiency, simplicity, continuity, fairness, and earnings stability, and several related policy matters (see Exhs. Blackstone-2, Atts. 1-6; DPU 1-1 and DPU 2-2). Therefore, on balance and taken as a whole, the Amended Settlement is consistent with both applicable law and the public interest, and results in just and reasonable rates because it represents a reasonable resolution of the issues in this proceeding. D.T.E. 06-109, at 9, citing NSTAR Electric Company, D.T.E. 03-121, at 49 (2004).

In conclusion, the Department approves the Amended Settlement. With the approval of the Amended Settlement, the Company is to file new tariffs to be effective May 1, 2013, in place of the illustrative tariffs submitted on March 8, 2013.

The Department's acceptance of this Amended Settlement, however, does not constitute a determination on the merits of any allegations, contentions, or arguments made in this proceeding. Moreover, the Department's acceptance of this Amended Settlement does not set a precedent for future filings, whether ultimately settled or adjudicated.

We also note that every petitioner is responsible for submitting a complete initial filing to the Department. In the matter of a proposed rate case settlement, the Department expects a petitioner to include, inter alia, as part of an initial filing the following: illustrative tariffs to support the rates and charges it is seeking; an analysis by rate class of the bill impacts of any proposed increase; a draft bill message to alert ratepayers of potential rate increase; and a Joint

Motion of any settling parties for Department approval of a proposed settlement. Absent receipt of a complete initial filing, the Department may exercise its right to reject a filing as incomplete.

V. ORDER

Accordingly, after review, public hearing and due consideration, it is

ORDERED: That the Joint Motion for Approval of the Settlement, as amended on March 27, 2013, submitted by Blackstone Gas Company and the Attorney General of the Commonwealth of Massachusetts is ALLOWED and the Settlement Agreement, as amended on March 27, 2013, submitted by Blackstone Gas Company and the Attorney General of the Commonwealth of Massachusetts, is therefore APPROVED; and it is

FURTHER ORDERED: That Blackstone Gas Company shall file new schedules and charges consistent with the terms of the Settlement Agreement, as amended on March 27, 2013, effective May 1, 2013, and it is

FURTHER ORDERED: That Blackstone Gas Company shall follow all other directives contained in this Order.

By Order of the Department,

/s/
Ann G. Berwick, Chair

/s/
Jollette A. Westbrook, Commissioner

/s/
David W. Cash, Commissioner

An 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 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 the 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. G.L. c. 25, § 5.