

JERROLD OPPENHEIM
57 MIDDLE STREET
GLOUCESTER, MASSACHUSETTS 01930-5736 USA
+1 (978) 283-0897
Fax +1 (978) 283-0957
JerroldOpp@DemocracyAndRegulation.com
www.DemocracyAndRegulation.com

January 31, 2007

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2d floor
Boston, Mass. 02110

RE: D.T.E. 06-113, Energy Efficiency Portfolio Standard

Dear Secretary Cottrell,

Enclosed for filing are the original and ten copies of the Comments of the Low-Income Weatherization and Fuel Assistance Program Network, Low-Income Energy Affordability Network, and Massachusetts Energy Directors Association in this docket.

Please let me know if there are any questions.

Thank you.

Sincerely,

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition for Investigation)
Into Establishing an) D.T.E. 06-113
Energy Efficiency Portfolio Standard)

**COMMENTS OF
THE LOW-INCOME WEATHERIZATION AND FUEL ASSISTANCE
PROGRAM NETWORK,
THE LOW-INCOME ENERGY AFFORDABILITY NETWORK, AND
MASSACHUSETTS ENERGY DIRECTORS ASSOCIATION**

These are the Comments of the Low-Income Weatherization and Fuel Assistance Program Network, Low-Income Energy Affordability Network (LEAN) and Massachusetts Energy Directors Association (MEDA) on the Petition by the Division of Energy Resources (DOER) for an investigation into establishing an Energy Efficiency Portfolio Standard (EEPS), filed on December 21, 2006, and noticed by the Department on December 29, 2006. We support the creation of the proposed collaborative, subject to limitations discussed below.

The “low-income weatherization and fuel assistance program network” (network) is described in the electricity restructuring act (St. 1997, c. 164, sec. 37; G.L. c. 25, sec. 19) and, among other things, delivers electric efficiency programs pursuant to that act, pursuant to federal programs, and otherwise. LEAN is a voluntary association of energy directors and others associated with the aforementioned network. MEDA is an association of agency directors associated with the aforementioned network. Commenters are substantially affected by the proposal in this docket in that (a) they may be called upon to bid and/or deliver the efficiency measures proposed, or may be disadvantaged in such bidding, (b) LEAN and MEDA will be called upon to assist individual agencies in so doing, and (c) the clients served by the agencies, with the assistance of LEAN and MEDA, receive benefits from energy efficiency programs that depend on the details thereof. In addition, the network, its agencies, their clients, LEAN, and MEDA would be injured by the adoption of an energy efficiency program that was inequitable with respect to low-income electricity customers, that encouraged restriction of efficiency investment to only those most cost-effective (cream-skimming), or that allowed opportunities for comprehensive energy efficiency investment to be lost (lost opportunities).

The network, LEAN and MEDA enthusiastically support the basic proposal that utility energy efficiency investments be quadrupled. Massachusetts already has the best efficiency programs in the nation, recognized by national efficiency advocates such as the American Council for an Energy Efficient Economy (ACEEE). However, as DOER’s Petition recognizes, the need and opportunity for cost-effective electric energy efficiency are much greater than is now financed.

However, the network, LEAN and MEDA are concerned that the specific mechanism chosen could severely limit the measures in which investment would be allowed, leading to inequities among customers as well as to cream-skimming and lost opportunities for the comprehensive energy efficiency investment that is state policy. The General Court declared in 1997 that “the commonwealth should insure the universal service and energy conservation policies, activities, and services are appropriately funded and available throughout the commonwealth.” (St. 1997, c. 164, §1(j)) Specifically, the General Court enacted “goals including, but not limited to, the following: (i) ensure that energy efficiency funds are allocated equitably among customer classes; (ii) ensure that there will be adequate support for "lost opportunity" efficiency programs in areas such as new construction, remodeling, and replacement of worn-out equipment; (iii) give due emphasis to statewide market transformation programs in order to systematically eliminate market barriers to energy efficiency goods and services; and (iv) provide weatherization and efficiency services to low-income customers.” (St. 1997, c. 164, §50; G.L. c. c.25A, §11G).

The Petition would limit additional efficiency investments to those that are less than the price of Basic Service generation (at 15). Compared to utility-funded investments that are made under existing programs, this limitation would encourage inefficient cream-skimming that would make uneconomic comprehensive efficiency measures that would have been economic if installed at the first opportunity. It would also disadvantage efforts at market transformation. Furthermore, as the Petition concedes (p. 18), participation would be limited and thus inequitable – commercial and industrial customer projects would be far more likely to be funded than residential projects. Our analysis is that low-income projects would be funded least frequently of all. In our view, this is in direct contravention of the General Court’s aforementioned goal “that energy efficiency funds are allocated equitably among customer classes.”¹

The network, LEAN and MEDA would support an expansion of the current system of funding. The Petition’s suggestion that this would be unlawful is not persuasive, but LEAN and MEDA would join the Department and the Division in seeking legislative clarity on the question.

The Petition’s argument that existing statute prohibits additional utility investment in energy efficiency is inconsistent and illogical. The Petition observes that “G.L. c. 25, §19 prohibits any additional charges by the distribution company for energy efficiency programs, it does not prohibit the inclusion of energy efficiency as a cost-effective supply resource for Basic Service.” (p. 21) The Petition thus assumes that the General Court could not have meant that the DTE should allow utilities to pass up four-cent resources (*i.e.*, efficiency) in order to purchase eight-cent resources (*i.e.*, generation). And it would allow utilities to provide the efficiency measures (p. 17, *see pp.* 20, 21). On these points we agree. But if it is allowable to roll utility “procurement” investments in efficiency into general rates without calling the result an efficiency charge, it is difficult to see what the

¹ Inconsistently, the Petition would restrict investment to Massachusetts customers even if more economic (in the Petition’s terms) investments were available elsewhere in the territory covered by the New England Power Pool. While we agree with this restriction, it can only be justified on equity grounds.

logic would be for not allowing any other additional utility investment in efficiency on the same basis. Indeed, so long as the DTE certifies that such a procurement is the most cost-effective source of resources, it would appear to be the only prudent course.

In any event, LEAN and MEDA agree that opening a docket to support a collaborative effort on this topic, and to sort out such issues among interested stakeholders, is an excellent idea.

Respectfully submitted,

THE LOW-INCOME WEATHERIZATION AND FUEL ASSISTANCE PROGRAM
NETWORK, THE LOW-INCOME ENERGY AFFORDABILITY NETWORK, AND
MASSACHUSETTS ENERGY DIRECTORS ASSOCIATION

By their attorney,

Jerrold Oppenheim, Esq.
57 Middle Street
Gloucester, Mass. 01930
978-283-0897
JerroldOpp@DemocracyAndRegulation.com

Dated: January 31, 2007