



January 31, 2007

BY OVERNIGHT MAIL

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

Re: Notice of Filing and Request for Comment
D.T.E 06-113

Dear Secretary Cottrell:

On December 29, 2006, the Department of Telecommunications and Energy (“Department”) issued a Notice of Filing and Request for Comments in docket D.T.E. 06-113, requesting comments by Wednesday, January 31, 2007, on a petition filed by the Division of Energy Resources (“DOER”). The DOER’s petition, filed on December 21, 2006, requests that the Department initiate a collaborative process to design an Energy Efficiency Performance Standard (“EPS”). Under the EPS, all electric distribution companies would be required to purchase a minimum percentage of their Basic Service supply through cost-effective energy efficiency resources. Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil” or “Company”) submits the following comments on the DOER proposal.

Unitil supports increasing energy efficiency measures and the availability of such programs to electric distribution customers, and would actively participate in any collaborative process initiated by the Department concerning these issues. However, the DOER’s proposal raises a number of concerns:

1. Unitil submits that it is questionable whether what the DOER’s proposal is consistent with the current statutory framework for the funding of energy efficiency in Massachusetts. Pursuant to G.L. c. 25, § 19, the Department has been directed to require a mandatory charge per kilowatt hour for all consumers to fund energy efficiency activities. The amount of this charge, currently at 2.5 mils (\$0.0025) per kilowatt hour, is explicitly set forth in the statute, which further provides that, “[a]

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distribution company shall not be allowed to assess any other charge relative to energy efficiency programs which would exceed the levels permitted herein.” Requiring distribution companies to include energy efficiency in the portfolio of energy resources that make up Basic Service would appear to be in violation of the this express prohibition “to assess any other charge” for energy efficiency.

It is also questionable whether the requirement in G.L. c. 164, § 1B that distribution companies procure Basic Service through competitive bidding and that it be provided at a rate that “shall not exceed the average monthly market price of electricity” would be violated by the proposed incremental recovery of costs over an extended (five year) period with carrying charges. These threshold issues should be resolved prior to the initiation of a collaborative process.

2. Unitil is concerned with the possible effect of such a program on the recovery of distribution costs. DOER acknowledges that a distribution company may experience lower distribution revenues from implementation of its proposed Efficiency Performance Standard, but does not make any recommendation to address this issue. Programs that reduce energy and/or demand use, which are the predominant source of utilities' distribution cost recovery, will necessitate the recovery of associated lost revenue through a reconciling rate mechanism or alternative rate design that appropriately compensates the company.

3. The proposal may also increase the cost of Basic Service to those who remain on this service. The current Energy Efficiency Charge (“EEC”) is a non-by-passable charge applied to all electric distribution customers. Any qualifying customer that currently participates in an energy efficiency program will continue to support the fund, regardless of electric supplier. It is possible, however, that under the proposed EPS, customers could receive energy efficiency services provided through Basic Service and then, once the project is complete, migrate to a competitive supplier. The remaining Basic Service customers would be left to bear the burden of the cost of the project, increasing per capita Basic Service costs. It is further possible that the customers least likely to be solicited by competitive suppliers (e.g., low-income or high-risk customers) may be left bearing a disproportionate

level of the costs. Moreover, the proposal to recover the costs of this program over a five year period may increase the severity of this problem, as the likelihood of customers leaving Basic Service for competitive supply increases.

4. Energy efficiency programs, such as those currently offered by Massachusetts electric utilities (utilities) and the DOER's EPS proposal, are primarily designed to save energy (MWh) as opposed to demand (kW). In fact, it has only been since 2003 that the utilities have been directly incented to reduce demand through their Department approved Performance Incentive mechanisms. Prior to 2003, utilities' incentives were earned based on achievement of certain program-implementation metrics and energy savings.

As DOER indicates in its petition, over time, the implementation of these successful energy efficiency programs in Massachusetts has resulted in a substantial reduction in electric energy consumption. In addition, the rate of growth in the annual peak demand is less than it would have been absent the energy efficiency programs. However, the rate of growth in peak demand has outstripped the rate of growth in energy, resulting in a worsening load factor. In 1998, Unitil's annual energy sales were 504,737 MWh and peak demand was 87 kW.¹ Seven years later, in 2006, annual sales were 533,349 MWh and peak demand was 101 kW.² This represents an increase in sales of 5.6 percent and peak demand of 16.3 percent, or conversely, a reduction in load factor of 66.2 percent in 1998 to 60.2 percent in 2006. While this worsening load factor is due to a number of causes, including the proliferation of residential air-conditioning and recent weather patterns, the energy efficiency programs' focus on reduction of energy consumption rather than demand is at least a contributing factor. Accordingly, Unitil submits that the design of new energy efficiency programs which focus on reducing demand can help to slow the deterioration in its load factor and can also play a substantial role in the new Forward Capacity Market, discussed below.

5. Lastly, Unitil notes that ISO New England Inc. is in the process of implementing the Forward Capacity Market, which is designed to provide incentive for the addition of capacity to the New England

¹ Unitil 1998 FERC Form 1, 401b

² Unitil 2006 FERC Form 1, 401b

electricity market through a forward auction process to be conducted by ISO New England Inc for capacity deliveries beginning 2010. In its capacity commitment process, ISO New England will consider capacity additions in the form of new generation and demand response or energy efficiency projects. In addition, demand response and energy efficiency projects are currently eligible for Forward Capacity Market transition payments. Accordingly, Unitil believes that the development of the New England Forward Capacity Market and other market-driven energy efficiency solutions, and the possible impact upon such developments by a program such as the EPS, should be taken into account.

In conclusion, Unitil submits that the threshold legal issues discussed briefly in paragraph number 1, above, must be resolved prior to establishing a collaborative process to investigate DOER's proposal. Unitil also recommends that the additional issues discussed above be specifically included in any new investigation of energy efficiency measures.

Sincerely,

s/ Gary Epler

Gary Epler
Attorney for Unitil

cc: Laura Bickel, Hearing Officer
Ron LeComte, Director, Electric Power Division
Kevin Brannelly, Director, Rates and Revenue Requirements
Rachel Graham Evans, Legal Counsel, DOER
Joseph Rogers, Assistant Attorney General