



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-GSEP-06

April 30, 2018

Petition of NSTAR Gas Company d/b/a Eversource Energy for approval of its 2018 Gas System Enhancement Plan, pursuant to G.L. c. 164, § 145, for rates effective May 1, 2018.

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I. INTRODUCTION

On October 31, 2017, NSTAR Gas Company d/b/a Eversource Energy (“NSTAR” or “Company”), pursuant to G.L. c. 164, § 145 (“Section 145”), submitted its 2018 gas system enhancement plan (“GSEP”) to replace aging natural gas pipeline infrastructure to the Department of Public Utilities (“Department”). In its initial filing, the Company sought approval to collect \$22,610,418 through the gas system enhancement adjustment factor (“GSEAF”) to recover the estimated cost to replace eligible leak-prone infrastructure in calendar year 2018, for effect on May 1, 2018 (Exh. ES-BKR at 11, 12-13). The Company stated that its revenue requirement exceeded the 1.5 percent revenue cap by \$1,184,815, or approximately 0.3 percent, and, thus, NSTAR asked the Department to waive the cap to permit recovery of the full amount of estimated costs (Exh. ES-BKR at 12-13, 15). Of the \$22,610,418 revenue requirement for the 2018 GSEP filing, the Company requested \$134,799 for the estimated costs to repair Grade 3 leaks of significant environmental impact (“G3SEI leaks”), which NSTAR did not apply to the 1.5 percent revenue cap (Exh. ES-BKR-1).

During the proceeding, the Company revised its revenue requirement to reflect a decrease of \$1,367,397, which NSTAR states lowers its proposed revenue requirement below the 1.5 percent cap (RR-AG-4). The \$1,367,397 decrease is comprised of decreases related to the Company’s capital repairs tax deduction, projected operating and maintenance (“O&M”) savings offset, and the changes in the Tax Cuts and Jobs Act of 2017 (“Tax

Act”).¹ Based on its revisions, NSTAR now proposes a revenue requirement of \$20,717,629 for its 2018 GSEP plus \$134,799 for the estimated costs to repair G3SEI leaks, for a total proposed revenue requirement of \$20,852,428 (RR-AG-4). Based on the Company’s revised proposed revenue requirement of \$20,852,428, NSTAR proposes to implement GSEAF rates of \$0.0547 per therm, \$0.0436 per therm, \$0.0269 per therm, and \$0.0237 per therm for residential customers, small commercial and industrial (“C&I”) customers, medium C&I customers, and large C&I customers, respectively (RR-AG-4).

The general terms of the Company’s GSEP and the formula for the calculation of its GSEAF are set forth in its local distribution adjustment clause (“LDAC”) tariff, M.D.P.U. No. 402L (Exhs. ES-RJB at 4; ES-BKR at 4; ES-BKR-3, at § 8). As discussed in Sections III.C. and III.E., below, the Company proposes certain modifications to its LDAC tariff (Exhs. ES-RJB at 8-10; ES-BKR at 16-17). The Department has docketed this matter as D.P.U. 17-GSEP-06.

On December 1, 2017, the Attorney General of the Commonwealth of Massachusetts (“Attorney General”) filed a notice of intervention pursuant to G.L. c. 12, § 11E(a).

Pursuant to notice duly issued, the Department held a public hearing on December 6, 2017.

In support of its filing, the Company sponsored the testimony of two witnesses:

(1) Robert J. Buffone, Jr., the Company’s manager of risk management and investment strategy; and (2) Bryant K. Robinson, Eversource Energy’s team leader in the Massachusetts

¹ On December 22, 2017, the Tax Act was signed into law. Pub. L. No. 115-97, 131 Stat. 2054: An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

revenue requirements group. The Department held an evidentiary hearing on March 7, 2018. On March 23, 2018, the Attorney General and the Company submitted initial briefs. On March 30, 2018, the Company submitted a reply brief.² The record consists of 58 exhibits and eight responses to record requests.

II. STATUTORY REQUIREMENTS

Section 145 permits gas distribution companies, in the interest of public safety and to reduce lost and unaccounted for natural gas, to submit to the Department an annual plan to repair or replace aging or leaking natural gas infrastructure.³ Any plan filed with the Department shall include, but not be limited to: (i) eligible infrastructure replacement of mains, services, meter sets, and other ancillary facilities composed of non-cathodically protected steel,⁴ cast iron,⁵ and wrought iron,⁶ prioritized to implement the federal gas

² The Attorney General did not submit a reply brief.

³ Section 145(a) defines eligible infrastructure replacement as: “a replacement or an improvement of existing infrastructure of a gas company that: (i) is made on or after January 1, 2015; (ii) is designed to improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas company by connecting an improvement for a principal purpose of serving new customers; (iv) reduces, or has the potential to reduce, lost and unaccounted for natural gas through a reduction in natural gas system leaks; and (v) is not included in the current rate base of the gas company as determined in the gas company’s most recent rate proceeding.”

⁴ Cathodic protection is a technique to control the corrosion of a metal surface by making the structure work as a cathode of an electrochemical cell. NACE International Standard Practice, SP0169-2007.

⁵ This category applies to gray cast iron that is a cast ferrous material in which a major part of the carbon content occurs as free carbon in the form of flakes interspersed through the metal. Because the carbon flakes do not bond with the ferrous material

distribution pipeline integrity management plan (“DIMP”) annually submitted to the Department, and consistent with 49 C.F.R. §§ 192.1001 through 192.1015; (ii) an anticipated timeline for the completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v) a description of customer costs and benefits under the plan; and (vi) any other information the Department considers necessary to evaluate the plan. Section 145(c). Annual changes in the revenue requirement eligible for recovery pursuant to the plan shall not exceed (i) 1.5 percent of the gas company’s most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers, or (ii) an amount determined by the Department that is greater than 1.5 percent of the gas company’s most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers. Section 145(f).⁷

on the molecular level, the metal is brittle and susceptible to stress cracking under pressure situations. American Gas Association, Gas Piping Technology Committee.

⁶ Together with cast iron, wrought iron pipelines are among the oldest energy pipeline constructed in the United States. The degrading nature of iron alloys, the age of the pipeline, and pipe joints design have greatly increased the risk involved with continued use of such pipelines. https://opsweb.phmsa.dot.gov/pipeline_replacement/

⁷ The GSEP revenue requirement includes depreciation expense, property taxes, and a return on investments associated with the plan. Section 145(e). Any revenue requirement approved by the Department in excess of such cap may be deferred for recovery in the following year. Section 145(f).

The Department may modify a plan prior to approval at the request of a gas company, or make other modifications to a plan as a condition of approval. Section 145(d).⁸ The Department is required to consider the costs and benefits of the plan including, but not limited to, impacts on ratepayers, reductions of lost and unaccounted for natural gas through a reduction in natural gas system leaks, and improvements to public safety. Section 145(d). The Department also is required to give priority to plans narrowly tailored to addressing leak-prone infrastructure most immediately in need of replacement. Section 145(d).

If a plan complies with Section 145, and the Department determines that it reasonably accelerates eligible infrastructure replacement and provides benefits to customers, the Department must preliminarily accept the plan either in whole or in part. Section 145(e). The gas distribution company may begin recovering the estimated GSEP revenue requirement beginning on May 1 of the year following submission of the plan. Section 145(e). Subsequently, on or before May 1 of each year, the gas distribution company must file final project documentation for construction completed the previous calendar year to demonstrate substantial compliance with the plan and to demonstrate that the costs were reasonably and prudently incurred. Section 145(f).

⁸ If a gas company files a plan on or before October 31 for the subsequent construction year, the Department must review the plan within six months. Section 145(d). The plan is effective as of the date of filing, pending Department review. Section 145(d).

III. GAS SYSTEM ENHANCEMENT PLAN

A. Introduction

NSTAR distributes natural gas to approximately 300,000 customers in 51 communities in central and eastern Massachusetts (Exh. ES-RJB-1, at 7). The Company owns and operates approximately 3,265 miles of distribution mains and 201,674 services (Exh. ES-RJB-1, at 7, Table 1). The Company states that approximately 21.1 percent (691 miles) of NSTAR's distribution system mains are composed of non-cathodically protected steel and wrought iron and approximately 10.7 percent (351 miles) of its distribution system is composed of cast iron or wrought iron, which means that approximately 31.8 percent of the distribution system mains (1,042 miles) are composed of leak-prone materials (see Exh. ES-RJB-1, at 7, Table 1, 8).

Historically, NSTAR replaced approximately 25 miles of leak-prone pipe per year (Exh. ES-RJB-1, at 4). NSTAR's GSEP establishes a program to replace eligible aging infrastructure over a 25-year period, with an anticipated replacement rate of 50 miles per year following a five-year ramp-up period (Exh. ES-RJB-1, at 4-5). NSTAR Gas Company, D.P.U. 14-135, at 34-35 (2015). In 2017, NSTAR proposed to replace 40 miles of leak-prone main and 3,000 associated services (Exh. ES-RJB-1, at 5). The Company stated that it is currently on track to meet these goals (Exh. ES-RJB-1, at 4). In 2018, NSTAR anticipates replacing 45 miles of leak-prone mains and 3,500 associated services (Exhs. ES-RJB-1, at 36; AG 1-6; AG 1-7).

The Attorney General raised issues regarding flow back of excess deferred income taxes, costs associated with the repair of G3SEI leaks, and certain of the Company's proposed tariff revisions.

B. Revenue Requirement Calculation

1. Introduction

In its initial filing, NSTAR presented its 2018 estimated GSEP revenue requirement and its proposed GSEAFs. The Company proposed a 2018 estimated GSEP revenue requirement of \$22,475,619 (Exh. ES-BKR-1, at Sch.1). During the proceeding, NSTAR reduced its proposal based on the reduction in the federal corporate income tax rate relating to the Tax Act (RR-AG-4). In addition, the Company also revised its revenue requirement to incorporate a higher capital repairs tax deduction and for projected O&M savings offset for vintage years 2017 and 2018 (RR-AG-4). Under its revised proposal, the Company proposes a 2018 estimated GSEP revenue requirement of \$20,717,629 (Exh. AG 2-1; RR-AG-4). As outlined below, the Attorney General raises concerns regarding the Company's revenue requirement calculation as it relates to the newly enacted Tax Act.

2. Positions of the Parties

a. Attorney General

The Attorney General maintains that NSTAR's 2018 estimated GSEP revenue requirement fails to consider all of the reductions associated with the Tax Act (Attorney General Brief at 2). The Attorney General recognizes that the Company proposes to decrease its revenue requirement to reflect the effects of the lower federal corporate income tax rate

on the level of current normalized income taxes (Attorney General Brief at 2, citing Exhs. AG 2-1; AG 2-4; RR-AG-4). Nonetheless, the Attorney General asserts that the Company's proposal fails to reflect the required flow back of the balances of excess deferred federal income taxes that were created by the Tax Act (Attorney General Brief at 2, citing Exhs. AG 2-1; AG 2-4; RR-AG-4). The Attorney General calculates that the Company's revenue requirement should be reduced by \$232,624 (Attorney General Brief at 2-3, citing RR-AG-4). The Attorney General maintains that there is no harm in requiring the Company to reduce its revenue requirement based on the estimated amount because the GSEP revenue requirement and its various components are themselves estimates (Attorney General Brief at 4). The Attorney General does not address the Company's other proposed revisions on brief.

b. Company

NSTAR asserts that the Department should approve its revenue requirement as proposed (Company Brief at 1, 23; Company Reply Brief at 2). The Company states that it has incorporated the lower federal tax rate into its revenue requirement (Company Reply Brief at 3 n.1, citing RR-AG-4). NSTAR maintains that the Department should not require any further adjustment to the Company's proposed revenue requirement based on the Tax Act (Company Reply Brief at 3-5). The Company contends that, unlike the effect of reducing the corporate income tax rate from 35 percent to 21 percent, the treatment of excess deferred income taxes is complex (Company Reply Brief at 3). NSTAR maintains that a determination regarding the appropriate flow back of excess deferred federal income taxes is

more appropriately reserved for the ongoing investigation opened by the Department into the impact of the Tax Act, *i.e.*, Investigation into Effect of Reduction in Federal Income Tax Rates, D.P.U. 18-15 (Company Reply Brief at 3).

3. Analysis and Findings

a. Tax Act

Effective January 1, 2018, the Tax Act reduced the federal corporate income tax rate from 35 percent to 21 percent. D.P.U. 18-15, at 1. Because the federal corporate income tax rate is implicated in numerous factors that comprise regulated companies' costs of service and revenues, the Department determined that the reduction in the federal corporate income tax rate has implications for the investor-owned electric distribution, natural gas distribution, and water companies under the Department's jurisdiction. D.P.U. 18-15, at 1, 4-6. To ensure that ratepayers receive the benefits from the decrease in the federal corporate income tax rate, the Department opened an investigation into the effect of the decrease in the federal corporate income tax rate on the rates charged by the Department's regulated utilities.

D.P.U. 18-15, Order Opening Investigation (February 2, 2018).

In this proceeding, NSTAR has proposed to reduce its revenue requirement based on a straight calculation of the change to the corporate income tax rate from 35 percent to 21 percent (RR-AG-4). The Department has reviewed the Company's calculations and supporting documentation with respect to the revised normalized level of federal corporate income taxes and we find that NSTAR's proposed adjustment is appropriate (RR-AG-4 & Atts.). With respect to the Attorney General's request to require the Company to implement

further adjustments related to excess deferred income tax, we find that it is premature for the Company to make such changes in the GSEP at this time. To the extent feasible, the Department intends to resolve all remaining issues related to the Tax Act in D.P.U. 18-15. See D.P.U. 18-15, at 4-7. While the reduction of the federal corporate income tax from 35 percent to 21 percent is a straightforward calculation, the excess deferred income tax requires more complex calculations. Additionally, the Tax Act itself is lengthy and complex.⁹ The Department must strike an appropriate balance between allowing a reasonable amount of time to review the Tax Act and implementing any changes imposed by the Tax Act. Thus, for any remaining issues relating to the Tax Act, we will rely on the ongoing proceeding in D.P.U. 18-15 where the Department will determine the impact of the Tax Act on various aspects of a company's revenue requirement. On conclusion of D.P.U. 18-15, the Department will reconcile any impact of the Tax Act in the following GSEP or GSEP reconciliation ("GREC") proceeding. To ensure that there is no harm to ratepayers, the Department expects that any impact of the Tax Act will be retroactive to January 1, 2018, i.e., the effective date of the Tax Act.

b. Capital Repairs Tax Deductions

During the course of the proceeding, the Company recalculated its revenue requirement to include the capital repairs tax deduction at rates of 20.79 percent for mains and 42.49 percent for services (RR-AG-3). This isolated revision resulted in a reduction to

⁹ The Tax Act makes significant revisions to the Internal Revenue Code affecting individual, estate, and corporate taxes. Together with the Joint Explanatory Statement of the Committee of Conference, the Tax Act is 1,097 pages.

the Company's revenue requirement of \$294,651 (RR-AG-3). The Company stated that it is not opposed to incorporating this modification into its revenue requirement (RR-AG-3). The Department has reviewed this issue, and finds the Company's calculations to be appropriate and, thus, we have included this modification in NSTAR's proposed revenue requirement.

c. Projected O&M Savings Offset

During the proceeding, NSTAR revised its O&M offset savings for 2017 and 2018 to reflect the Company's projected miles of replaced leak-prone pipe for each respective year. The isolated effect of these revisions resulted in a reduction to the Company's revenue requirement of \$9,519 (RR-AG-4). The Department finds that this method is consistent with prior GSEP Orders. NSTAR Gas Company D.P.U. 16-GSEP-06, Exh. ES-BKR-1, at 12 (2017). We also find that this method is consistent with the Company's current LDAC tariff (Exh. ES-BKR-4, at § 8.4(12)). The Department therefore directs the Company to use this method in future GSEP filings, and will include the proposed reduction in the Company's proposed revenue requirement.

C. Remediation of G3SEI Leaks

1. Introduction

The Company estimates that it will repair 50 G3SEI leaks under its 2018 GSEP, and has developed a budget of \$134,799 associated with the repair of these leaks (Exh. ES-RJB at 11). NSTAR states that its estimated cost is based on the average repair cost of \$2,700 per leak, which is based on historical leak repair costs (Exhs. ES-BKR at 10; ES-RJB at 11). The Company notes that the local distribution companies have been actively involved in the

Department's current rulemaking, Gas Leak Regulations, D.P.U. 16-31-B,¹⁰ which includes proposed regulations regarding the identification and repair of G3SEI leaks, but that there is a need to begin addressing the G3SEI leaks in the GSEPs pending final resolution of the rulemaking (Exh. ES-BKR at 10-11). NSTAR also proposes a change to the LDAC tariff to allow for the recovery of costs related to G3SEI leaks (Exhs. ES-BKR at 10-11; ES-BKR-3, App. A). The Company states that once the final regulations have been promulgated, it will survey its Grade 3 leak inventory to determine which leaks should be classified as G3SEI leaks, and will thereafter refine its estimate (Exh. ES-RJB at 11-12).

2. Positions of the Parties

a. Attorney General

The Attorney General argues that the Department has not yet issued an Order in D.P.U. 16-31 outlining the parameters of the G3SEI leak identification and repair program and how it will be executed (Attorney General Brief at 5). The Attorney General contends that it is premature for the Company to seek and recover money for a program that has not yet been approved (Attorney General Brief at 5). While the Attorney General supports the implementation of a program to address G3SEI leaks, she asserts that the Department should

¹⁰ Pursuant to St. 2014, c. 149, § 2, An Act Relative to Natural Gas Leaks, the Department commenced the D.P.U. 16-31 rulemaking to promulgate regulations necessary to implement uniform natural gas leak classifications and to oversee and monitor gas companies' responses and reporting. Subsequently, the Department added proposed regulations to address the identification and repair of G3SEI leaks, pursuant to St. 2016, c. 188, § 13, An Act to Promote Energy Diversity.

not approve the expenditure of funds for work that is undefined and uncertain until regulations are in place (Attorney General Brief at 5).

The Attorney General further states that NSTAR's proposed changes to the LDAC tariff to allow for the recovery of G3SEI leaks are also premature (Attorney General Brief at 5). The Attorney General asserts that if the Department approves the changes to the LDAC tariff, the Department should make several modifications to the language regarding G3SEI leak remediation to: (1) ensure that eligible costs are given the standard regulatory treatment, whether it is to expense or capitalize the costs; (2) ensure that the Company recovers only incremental G3SEI leak remediation costs; (3) incorporate specific G3SEI leak identification procedures into the Company's O&M procedures; and (4) incorporate the data derived from the G3SEI leak identification procedures into the Company's DIMP (Attorney General Brief at 5-9).

b. Company

NSTAR contends that the Department should disregard the Attorney General's arguments to exclude the estimated G3SEI leak repair costs from the 2018 GSEP (Company Reply Brief at 5-6). The Company asserts that the Attorney General's argument frustrates the intent of the Energy Diversity Act, St. 2016, c. 188, which is to accelerate the elimination of emissions, and that the Attorney General's claim that the regulatory treatment of G3SEI leaks is too uncertain to include in the 2018 GSEP is patently incorrect (Company Reply Brief at 1, 6). The Company argues that although the regulations regarding the remediation of G3SEI leaks are not yet final, a certain subset of the Company's Grade 3

leaks will ultimately be classified as environmentally significant and subject to accelerated repair (Company Reply Brief at 6). Thus, the Company states, it has included a very conservative estimate of the number of G3SEI leaks that will be classified pursuant to the final regulations, and following issuance of the final regulations, NSTAR will refine its estimate (Company Reply Brief at 6, citing Exh. ES-RJB at 11-12). Moreover, the Company maintains that the Department will analyze and address the actual costs to repair G3SEI leaks in the 2018 GRECs, to be filed May 1, 2019 (Company Reply Brief at 6). The Company asserts that a failure to authorize the inclusion of G3SEI leaks in the 2018 GSEP will result in additional delays in repairing and eliminating the emissions from these leaks (Company Reply Brief at 7).

Further, NSTAR asserts that a careful review of its proposed Appendix A to the LDAC tariff (regarding G3SEI leak repair) shows that it is consistent with the provisions of the Energy Diversity Act regarding cost recovery associated with the remediation of G3SEI leaks, and that any costs related to the remediation of G3SEI leaks are incremental (Company Reply Brief at 7, citing Exh. DPU 1-7, at 36-38). The Company asserts that, along with other local distribution companies, it has drafted tariff language regarding: (a) the evidentiary documentation required to demonstrate that G3SEI leak repair costs were reasonably and prudently incurred; (b) whether the costs associated with each reported G3SEI leak are related to repair or replacement of existing infrastructure, as defined in § 8.4(6) of M.D.P.U. No. 402L; and (c) whether the capital cost is included in the GSEP revenue requirement subject to the revenue cap or included in eligible G3SEI leak O&M costs

recoverable outside of the revenue cap (Company Reply Brief at 8-9, citing Exh. DPU 1-7, at 37-38).

The Company further states that it has already committed to incorporating G3SEI leak identification and remediation procedure into its O&M manual once the final regulations in D.P.U. 16-31 are promulgated (Company Reply Brief at 10, citing Exhs. AG 1-32, AG 1-33, AG 1-34; Tr. at 20-21, 30, 63-64). D.P.U. 16-31-B, Attachment 4, at 6-7 (September 14, 2017). NSTAR asserts that because G3SEI leaks represent an environmental issue as opposed to a pipeline safety issue, it is inappropriate to include G3SEI leaks in the Company's identification or risk assessment under the DIMP (Company Reply Brief at 10).

3. Analysis and Findings

As noted above, the Company estimates that it will repair 50 G3SEI leaks under its 2018 GSEP and has developed a budget of \$134,799 associated with the repairs of these leaks (Exh. ES-RJB at 11). Nevertheless, where the Department has not yet issued final regulations in the D.P.U. 16-31 rulemaking regarding the methods for identifying and remediating G3SEI leaks, it is premature for NSTAR to seek recovery for the costs of repairing G3SEI leaks. For the same reason, it is premature for the Department to approve any changes to the Company's LDAC tariff regarding the G3SEI leaks or to require the Company to amend its O&M manual or its DIMP pending the approval of final regulations in D.P.U. 16-31. Accordingly, the Department disallows NSTAR's request to include the estimated revenue requirement related to G3SEI leaks of \$134,799 in the Company's GSEP

revenue requirement.¹¹ After the regulations are finalized in D.P.U. 16-31, the Department will address the proper ratemaking treatment and other tariff modifications related to G3SEI leaks.

D. Conclusion on 2018 GSEP

Based on the Department's review of the record in this proceeding, and to the extent not otherwise addressed above, we find that the Company's 2018 GSEP complies with the requirements set forth in Section 145. Accordingly, the Department approves, except as noted above, NSTAR's 2018 GSEP, for effect May 1, 2018. Based on the foregoing, the Department allows NSTAR a revenue requirement of \$20,717,629, which is composed of the Company's proposed revenue requirement of \$20,852,428 for the 2018 GSEP less the estimated G3SEI leak costs of \$134,799. Based on the allowed revenue requirement of \$20,717,629, the allowed GSEAFs are \$0.0543 per therm, \$0.0433 per therm, \$0.0267 per therm, and \$0.0235 per therm for residential customers, small C&I customers, medium C&I customers, and large C&I customers, respectively.

E. Proposed Tariff Changes

1. Introduction

The Company proposes several edits to its LDAC tariff (Exh. ES-BKR-3).¹² First, NSTAR proposes to revise the definition of GSEP-eligible existing infrastructure to include

¹¹ For the purpose of calculating the GSEAFs approved in this Order, the Department has excluded the estimated costs of \$134,799 related to the repair of G3SEI leaks.

¹² As noted in Section III.C.3., above, the Department has disallowed revisions to the Company's tariff relating to the G3SEI leak remediation.

the replacement of sections of plastic and cathodically protected steel main, known as incidental pipe (Exh. ES-BKR-3, at § 8.4(6)). Second, the Company proposes a revision to allow for the replacement of copper services as a part of its GSEP (Exh. ES-BKR-3, at §§ 8.4(6), 8.10.1). Third, NSTAR proposes alterations to its calculations of the GSEP revenue requirement, rate base, depreciation, gross plant, and accumulated deferred income taxes so that these amounts are estimated by month rather than by year (Exh. ES-BKR-3, at § 8.5.1). Fourth, NSTAR proposes edits to separate the GREC filing from the Company's local distribution adjustment factor ("LDAF") filing to recognize that the GREC filing is due annually on or before May 1st, while the LDAF filing is due annually 90 days prior to November 1st (Exh. ES-BKR-3, at § 8.10.3). Fifth, the Company proposes a revision to the overhead and burden adjustment (Exh. ES-BKR-3, at § 8.8.1). Finally, NSTAR proposes a revision to clarify how the GSEP cap is calculated (Exh. ES-BKR-3, at § 8.7.1).

2. Positions of the Parties

a. Attorney General

The Attorney General argues that this proceeding is not the appropriate forum for considering the Company's proposed change to the definition of existing infrastructure to specifically include various types of incidental pipe (Attorney General Brief at 9). Rather, the Attorney General asks that the Department stay the approval of the proposed revision because the Department directed the Company to propose a strategy related to incidental pipe in its May 1, 2018 GREC filing (Attorney General Brief at 9, citing NSTAR Gas Company, D.P.U. 17-GREC-06, at 15 (2017)). The Attorney General asserts that although the

Department has recognized that the replacement of incidental pipe may be necessary for cost-effectiveness reasons, the Department found that incidental pipe is not GSEP-eligible infrastructure (Attorney General Brief at 10, citing D.P.U. 17-GREC-06, at 13-14).

Additionally, if the Department considers the proposed change to the definition of existing infrastructure in the instant proceeding, the Attorney General contends that the Department should reject it because it is contrary to Section 145 (Attorney General Brief at 10-11). The Attorney General argues that the Company's proposed definition of existing infrastructure is incorrect and that including the proposed change to the definition of existing infrastructure in the Company's tariff would constitute an improper expansion of Section 145 (Attorney General Brief at 10-11). The Attorney General did not address NSTAR's other proposed tariff revisions on brief.

b. Company

NSTAR maintains that the proposed changes to its tariff are appropriate and the Department should approve them (Company Brief at 2). The Company asserts that the Attorney General's arguments regarding replacement or retirement of discrete segments of incidental pipe are without merit (Company Reply Brief at 15). NSTAR claims that the Department has repeatedly determined that incidental pipe replacement is GSEP-eligible replacement when part of a least-cost strategy for street excavation (Company Reply Brief at 12, citing D.P.U. 17-GREC-06, at 34; NSTAR Gas Company, D.P.U. 16-GREC-06, at 28 n.16 (2016)).

The Company maintains that its remaining tariff changes were made to incorporate operational realities associated with GSEP projects into the GSEP construction (Company Brief at 19, 23). NSTAR asserts that it appropriately revised its tariff to include copper as leak-prone material (Company Brief at 19). The Company states that while copper is not as susceptible to corrosion as steel, copper services typically contain steel valves and pipe segments that act as sacrificial anodes protecting the copper from corroding (Company Brief at 19). The Company contends that as a consequence, these steel valves and pipe segments experience accelerated rates of corrosion and therefore leaks and, as such, copper should be considered leak-prone material eligible for inclusion in the GSEP (Company Brief at 19-20).

NSTAR also asserts that its proposed revisions relating to the use of a monthly average rate base and overheads and burdens test are appropriate and consistent with tariff language used by other local distribution companies (Company Brief at 23-24). Based on the foregoing, the Company asserts that the Department should allow all of its requested revisions to the tariff (Company Brief at 2, 19-23).

3. Analysis and Findings

In D.P.U. 17-GREC-06, at 15, the Department directed the Company to propose a strategy for the treatment of incidental pipe in its May 1, 2018 GREC filing. Rather than proposing a specific procedure for including and, where applicable, excluding costs associated with incidental pipe in its May 1, 2018 GREC filing, NSTAR has proposed in this proceeding to simply change the definition of existing infrastructure in order to allow recovery of costs associated with the replacement of incidental pipe (Exh. ES-BKR-3,

at 18, 29). In the absence of a specific proposal for the treatment of incidental pipe, the Department finds that approval of the Company's proposed tariff change is premature. Therefore, the Department denies the Company's proposed revision to the definition of existing infrastructure in its LDAC tariff. Moreover, where the Company's proposed definition would depart from the statutory definition of eligible infrastructure contained in Section 145, the Department would not be inclined to accept the proposed definition change. Rather, following consideration of a specific procedure for the treatment of incidental pipe, the Department would expect a more targeted proposal to incorporate approved procedures and cost recovery associated with incidental pipe in the Company's LDAC tariff.

As previously indicated, the Department expects the Company to propose a specific procedure for including and, when applicable, excluding costs associated with retiring and replacing existing infrastructure in the GSEP mechanism, including policies established to ensure that substantial plastic and cathodically protected steel main replacements are not included for recovery in the GSEP mechanism. D.P.U. 17-GREC-06, at 15. In addition, the Department has previously stated that any tariff change is best handled in the GSEP proceedings. D.P.U. 17-GREC-06, at 38, n.20; D.P.U. 16-GREC-06, at 28 n.16. Therefore, only after the Company proposes the specific procedures previously directed by the Department as part of its May 1, 2018 GREC filing, should the Company include proposed tariff changes related to the inclusion and, where applicable, exclusion of incidental pipe in its LDAC tariff.

The Department previously disallowed costs related to the replacement of copper services because the Company's tariff did not include copper as an eligible infrastructure.

D.P.U. 16-GREC-06, at 11-12; see also D.P.U. 17-GREC-06, at 16 & n.15. The Department directed the Company to propose a revision to its LDAC tariff if it sought to include costs related to the replacement of copper services in the GSEP.

D.P.U. 16-GREC-06, at 11-12; D.P.U. 17-GREC-06, at 16 n.15. As part of the Company's GSEP filing, NSTAR proposed tariff revisions to include the replacement of copper services as part of its GSEP plan (Exh. ES-BKR-3, at § 8.4.6). The Company also provided testimony as to why copper services should be considered leak-prone pipe and therefore included in the LDAC tariff (Exh. ES-RJB at 8). After review of the Company's proposal, and an examination of other local distribution companies' GSEP practices, we find that the tariff revisions regarding the inclusion of copper services as GSEP-eligible infrastructure are reasonable.

Regarding the changes to its revenue requirement calculation, the Department had previously accepted the Company's proposal to work with other GSEP-eligible local distribution companies to propose amended tariffs to estimate the GSEP revenue requirement using monthly averages, rather than using beginning and end-of-year plant balances.

D.P.U. 16-GSEP-06, at 12-14. Accordingly, the Department finds that proposed revisions to the Company's LDAC tariff regarding the calculation method of the GSEP revenue requirement are reasonable.

The Company also proposed tariff changes to recognize that the difference in timing of the GREC filing and the LDAF filing does not allow both filings to be submitted simultaneously (Exh. ES-BKR-3, at § 8.10.3). After the Department's review, we find this revision to the LDAC tariff to be reasonable.

The Company also proposes changes relating to the overhead and burdens test (Exh. ES-BKR-3, at § 8.8.1). The Department previously determined that additional information was needed to determine the appropriateness of the Company's test, and noted that NSTAR may need to amend its tariff to ensure that the language of the tariff matches the Company's execution of the test. D.P.U. 17-GREC-06, at 40-41. Based on our review, we find that the revisions to the overhead and burdens test are appropriate for the efficient operation of the GSEP.

Finally, the Company proposes revisions to the calculation of the GSEP revenue cap (Exh. ES-BKR-3, at § 8.5.1). The Department previously determined it may be appropriate to revise the Company's tariff language to clarify that the recovery of the annual GSERAF that may be billed in any year beginning in November 1 will be limited by the difference between the GSEP cap and the annual change in the GSEP recovery. D.P.U. 17-GREC-06, at 38 n.20. We find that, here, NSTAR has appropriately revised its tariff language to be consistent with Department precedent.

Based on the foregoing, the Department rejects the Company's proposal to revise its tariff relating to incidental pipe and allows NSTAR's proposed tariff revisions relating to copper services, the calculation of its revenue requirement using monthly averages for plant

balances, the timing and treatment of the GREC filing in coordination with the LDAF filing, the overhead and burdens test, and the calculation of the GSEP revenue cap. The Department directs the Company to submit a compliance tariff that incorporates the approved revisions to its LDAC tariff within five business days of the issuance of this Order.

IV. ORDER

Accordingly, after notice, hearing, and due consideration, it is

ORDERED: That the petition of NSTAR Gas Company for approval of its 2018 gas system enhancement plan, as modified, is APPROVED; and it is

FURTHER ORDERED: That the gas system enhancement adjustment factors of NSTAR Gas Company in the amounts of \$0.0547 per therm, \$0.0436 per therm, \$0.0269 per therm, and \$0.0237 per therm for the residential, small commercial and industrial, medium commercial and industrial, and large commercial and industrial customers, respectively, to take effect May 1, 2018, are DENIED; and it is

FURTHER ORDERED: That the gas system enhancement adjustment factors of NSTAR Gas Company in the amounts of \$0.0543 per therm, \$0.0433 per therm, \$0.0267 per therm, and \$0.0235 per therm for the residential, small commercial and industrial, medium commercial and industrial, and large commercial and industrial customers, respectively, to take effect May 1, 2018, are APPROVED subject to further review and investigation; and it is

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 party 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.