



THE COMMONWEALTH OF MASSACHUSETTS  
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December 20, 2017

Mark D. Marini, Secretary  
Department of Public Utilities  
One South Station, 5th Floor  
Boston, Massachusetts 02110

**Re: Petition of Attorney General Maura Healey Seeking the DPU Open an  
Investigation to Reduce Rates Paid by Electric, Gas, and Water Ratepayers  
Pursuant to G.L. c. 164, § 93. D.P.U. 17-XX.**

Dear Secretary Marini:

Enclosed please find the Office of the Attorney General's Petition for the Department of Public Utilities to open an investigation to reduce rates paid by electric, gas and water ratepayers, pursuant to G.L. c. 164, §93. Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions about this filing.

Sincerely,

*/s/ John J. Geary*

John J. Geary  
Assistant Attorney General

Enclosure

cc: Mark Marini, Secretary  
Service List

ATTORNEY GENERAL OF THE  
COMMONWEALTH OF MASSACHUSETTS,  
  
PLAINTIFF,  
  
v.  
  
MASSACHUSETTS ELECTRIC COMPANY AND  
NANTUCKET ELECTRIC COMPANY, EACH D/B/A/  
NATIONAL GRID; BOSTON GAS COMPANY AND  
COLONIAL GAS COMPANY, EACH D/B/A NATIONAL  
GRID; NSTAR ELECTRIC COMPANY AND WESTERN  
MASSACHUSETTS ELECTRIC COMPANY, EACH D/B/A  
EVERSOURCE ENERGY; NSTAR GAS COMPANY, D/B/A  
EVERSOURCE ENERGY; BAY STATE GAS COMPANY,  
D/B/A COLUMBIA GAS OF MASSACHUSETTS; THE  
BERKSHIRE GAS COMPANY; FITCHBURG GAS AND  
ELECTRIC LIGHT COMPANY, D/B/A UNITIL; LIBERTY  
UTILITIES (NEW ENGLAND GAS COMPANY) CORP.,  
D/B/A LIBERTY UTILITIES; MILFORD WATER  
COMPANY; and AQUARION WATER COMPANY OF  
MASSACHUSETTS, INC.,  
  
DEFENDANTS.

## I. STATEMENT OF THE CASE

1. The Commonwealth of Massachusetts, Plaintiff, by Attorney General Maura Healey, brings this action under authority of G.L. c. 164, § 93, seeking to reduce rates paid by electric, gas, and water ratepayers of: Massachusetts Electric Company and Nantucket Electric Company, each d/b/a/ National Grid; Boston Gas Company and Colonial Gas Company, each d/b/a National Grid; NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy; NSTAR Gas Company, d/b/a Eversource Energy; Bay State Gas Company, d/b/a Columbia Gas of Massachusetts; The Berkshire Gas Company; Fitchburg Gas

and Electric Light Company, d/b/a Unitil; Liberty Utilities (New England Gas Company) Corp., d/b/a Liberty Utilities; Milford Water Company;<sup>1</sup> and Aquarion Water Company of Massachusetts, Inc. (collectively, the “Utilities”).

2. On December 20, 2017, both houses of Congress passed a bill entitled “To Provide for the Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018” (hereinafter, the “Tax Cuts and Jobs Act”), which, among other things, reduces federal corporate income tax rates paid by the Utilities from 35 percent to 21 percent. Because the federal corporate income tax expense is reflected in each of the Utilities’ base rates, the Department of Public Utilities (the “Department”) should immediately adjust the Utilities’ rates to pass through to ratepayers any benefits of the decrease in the federal corporate income tax rate that result from the ratemaking calculation of the tax expense. *Reduction in Federal Income Tax Rates*, D.P.U. 87-21 (1987).

## II. JURSDICTION AND VENUE

3. The Department of Public Utilities (the “Department”) has jurisdiction over the subject matter of this action pursuant to G. L. c. 164, §§ 93 and 76. The Attorney General is authorized to bring this action pursuant to G. L. c. 164, § 93.

4. The Department is the proper venue for this action pursuant to the provisions of G.L. c. 164, § 93.

## III. PARTIES

5. The Plaintiff is the Commonwealth of Massachusetts, represented by the Attorney General, Maura Healey, who brings this action in the public interest on behalf of those

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<sup>1</sup> The Attorney General’s Office is aware that the Town of Milford is in the process of buying Milford Water Company. If the Town of Milford is successful, the Department will no longer have jurisdiction over its water distribution rates.

consumers of gas, electric, and water services provided by the Defendant Utilities. The Attorney General, the chief law enforcement Officer of the Commonwealth and pursuant to G. L. c, 12, § 11E, is specifically authorized to participate in administrative, regulatory, or judicial proceedings on behalf of any group of consumers in connection with any matter involving rates, charges, prices and tariffs of an electric company, gas company, generator, transmission company, telephone company and telegraph company, and water company doing business in the Commonwealth and subject to the jurisdiction of the Department of Public Utilities or the Department of Telecommunications and Cable.

6. The Defendants are the Massachusetts Electric Company and Nantucket Electric Company, each d/b/a/ National Grid, located at 40 Sylvan Road, Waltham, Massachusetts 02451; Boston Gas Company and Colonial Gas Company, each d/b/a National Grid, located at 40 Sylvan Road, Waltham, Massachusetts 02451; NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy, located at 800 Boylston Street, 17<sup>th</sup> Floor, Boston, MA 02199 and 300 Cadwell Drive, Springfield MA 01104, respectively; NSTAR Gas Company, d/b/a Eversource Energy; located at 800 Boylston Street, 17<sup>th</sup> Floor, Boston, MA 02199; Bay State Gas Company, d/b/a Columbia Gas of Massachusetts, located at 4 Technology Drive, Suite 250, Westborough, Massachusetts 01581; The Berkshire Gas Company, located at 115 Cheshire Road, Pittsfield, Massachusetts 01201; Fitchburg Gas and Electric Light Company, d/b/a Unitil, located at 6 Liberty Lane West, Hampton, New Hampshire 03842; Liberty Utilities (New England Gas Company) Corp., d/b/a Liberty Utilities, located at 36 Fifth Street, Fall River, Massachusetts 02721; and Aquarion Water Company of Massachusetts, Inc., located at 835 Main Street, Bridgeport, Connecticut 06606.

#### IV. FACTS

7. The Utilities' rates are governed by G.L. c. 164, § 94.
8. On December 20, 2017, both houses of Congress passed the Tax Cuts and Jobs Act, which reduced federal corporate income tax rates from by 35 percent to 21 percent.
9. The recent change to the federal tax code necessitates that the Department exercise its statutory responsibilities pursuant to G.L. c. 164, § 94, which is governed by the principle that each of the Utilities' rates must be just and reasonable.
10. The Utilities' base rates each include a normalized level of federal corporate income taxes as an expense in those Utilities' cost of service. D.P.U. 87-21-A, p. 8.
11. The ratemaking effect of the reduction in the federal corporate income tax rate requires a straightforward calculation based on facts adjudicated in each of the Utilities' most recent rate case. D.P.U. 87-21-A, p. 10.
12. Further, the Department should require the Utilities to adjust their excess reserve for deferred federal income taxes. Income tax timing differences arise when a utility's actual income taxes do not match income taxes recognized on the utility's accounting books for the same period. A utility accrues deferred income taxes when it has a current deduction or credit for tax purposes, but not for book purposes.
13. The Tax Cuts and Jobs Act significantly decreases marginal federal income tax rates from 35 percent to 21 percent, which means that deferred income taxes that had been accumulated at the higher rate of 35 percent should be ultimately passed back to customers at the lower rate of 21 percent.
14. The Utilities have excess deferred income taxes with the adoption of this new tax rate because the Utilities have accrued the reserve at the former higher 35 percent rate, and the

Utilities will pay back the reserve at the lower 21 percent rate. Accordingly, the Department must return to customers the Utilities' excess reserve for deferred federal income taxes. *Massachusetts Electric Company and Nantucket Electric Company*, D.P.U. 15-155, pp. 256–59 (2016); *NSTAR Gas Company*, D.P.U. 14-150, pp. 241–42 (2015); *Boston Gas Company and Colonial Gas Company*, D.P.U. 10-55, p. 637 (2010) (Amortization of Excess Deferred Income Taxes); *Berkshire Gas Company*, D.P.U. 90-121, p. 136 (1990).

15. In order to prevent the Utilities from reaping a windfall from the change in marginal tax rates, the Department should require the Utilities to pass back the excess deferred income taxes over the remaining lives of the property which gave rise to the reserve. *Id.* This process is known as the “average rate assumption method” (“ABA”). *Id.*

16. Therefore, in order to ensure that the Utilities' rates in the Commonwealth remain just and reasonable, the Department should take action upon receipt of this Complaint to convene a proceeding to determine for each Utility the impact that the reduction in the federal corporate tax rate will have on ratepayers' bills and order each Utility to immediately make a corresponding reduction to its distribution rates.

WHEREOF the Attorney General respectfully requests that:

- A. The Department initiate an investigation under Section 93 of Chapter 164 of the Massachusetts General Laws to reduce the Utilities' rates charged to ratepayers, and notify the Utilities of this Complaint as required by this statute;
- B. The Department require the Utilities to pass back the Utilities' lowered revenue requirement for federal corporate income tax expense to ratepayers immediately; and

C. The Department require the Utilities to pass back the excess deferred federal income taxes over the remaining lives of the property which gave rise to the reserve pursuant to the average rate assumption method.

Respectfully submitted,

MAURA HEALEY  
ATTORNEY GENERAL

*/s/ John J. Geary*

John J. Geary  
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Office of Ratepayer Advocacy  
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Boston, Massachusetts 02108  
(617) 727-2200

Dated: December 20, 2017

ATTORNEY GENERAL OF THE  
COMMONWEALTH OF MASSACHUSETTS,  
  
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MASSACHUSETTS ELECTRIC COMPANY, EACH D/B/A  
EVERSOURCE ENERGY; NSTAR GAS COMPANY, D/B/A  
EVERSOURCE ENERGY; BAY STATE GAS COMPANY,  
D/B/A COLUMBIA GAS OF MASSACHUSETTS; THE  
BERKSHIRE GAS COMPANY; FITCHBURG GAS AND  
ELECTRIC LIGHT COMPANY, D/B/A UNITIL; LIBERTY  
UTILITIES (NEW ENGLAND GAS COMPANY) CORP.,  
D/B/A LIBERTY UTILITIES; MILFORD WATER  
COMPANY; and AQUARION WATER COMPANY OF  
MASSACHUSETTS, INC.,  
  
DEFENDANTS.

I hereby certify that I have this day served the foregoing document upon the Defendant  
Utilities' counsel, in accordance with the requirement of 220 C.M.R. § 1.05(1) (Departments  
Rules of Practice and Procedure). Dated at Boston this 20<sup>th</sup> day of December, 2017.

/s/ John J. Geary  
John J. Geary  
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Massachusetts Attorney General  
Office of Ratepayer Advocacy  
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