Memorandum

To: Alice Davey, DPU; Massachusetts GSEP Working Group
From: Jenifer Bosco and Karen Lusson, National Consumer Law Center
RE: Additional Comments on GSEP statute, G.L. c. 164, sec. 145
Date: May 26, 2023

In a May 22nd email to you, the National Consumer Law Center (NCLC) joined with LEAN to submit a redlined version of G.L. c. 164, § 145. We would like to supplement some of the provisions in that redline, and ultimately believe that the process of revising GSEP may benefit from a more holistic questioning of the need for accelerated rate recovery of gas delivery and clean energy infrastructure investments through a rider – particularly given the Commonwealth's clean energy goals as they now exist. Since many of our overall concerns cannot be represented in a redline, we submit this memo with additional comments to contribute to our discussions, about changes that may be needed to align the statute with the Commonwealth's climate goals.

- As an initial matter, we believe the question should be asked: is an accelerated cost recovery mechanism necessary? Accelerated recovery of infrastructure through a monthly surcharge is an expensive way to incorporate delivery service investments into customer rates, and incentivizes spending up to any set cost cap.
- That being said, revising the GSEP statute to accommodate informed gas system planning makes sense. Such proceedings will allow the Department to make careful informed decisions specifically focused on gas system planning. Part of that process should include, as the AG's office has mentioned in prior meetings, a mapping of gas leak activity among other informational data points (which may require revisions of G.L. c. 164, sec. 147). Other mapping to inform the process, such as where electric load is not currently constrained, would be informative as the Department considers where electrification efforts could begin. Cost recovery of any planned investments, however, can and should come in rate cases, where it existed for decades before enactment of the GSEP statute and the overall rate impact of a utility's proposal can be fully assessed.
- Consistent with the prior point, repairs, at least cost, should be prioritized over replacement of aging or leaking gas infrastructure. While replacement will likely be the only feasible option in some circumstances, if a gas company seeks cost recovery for replacement of infrastructure, there should be a high standard or evidentiary burden to show that replacement rather than repair is necessary.
- Repairs of gas leaks that affect vulnerable communities and populations should be prioritized.
- This statute should place a moratorium on adding new customers to the gas system, or on cost recovery for adding new customers. G.L. c. 164, sec. 92, may need to be amended to incorporate climate goals and to limit the right to petition for new gas service.
- Gas system plans filed pursuant to this statute could include the following information:
    - The identification of infrastructure, by location, type of material, age and remediation timeline, that the company has analyzed as leaking or prone to

leaking, and posing immediate or imminent threat of significant public health and safety concerns, and verification of such claims by a qualified third party;
    - How the gas company evaluated and confirmed that gas main or service leak and other vulnerabilities could not be addressed using a method of repair that reduces the threat of leak or vulnerability without replacing the infrastructure;
    - How these infrastructure deficits could not otherwise be repaired in a manner that supports a transition to targeted decommissioning, networked thermal heating and cooling, or both. If such work would not be mechanically or financially feasible at the time the plan was submitted, the gas company would include an explanation of barriers to targeted decommissioning or transition, what conditions could overcome these barriers, and at what time may such work be feasible.
- An affordability program should be incorporated into any GSEP revisions, such as a corresponding increase in discount rates as outlined in LEAN's and NCLC's redlined submission, to protect low-income customers from expected gas rate increases during the clean energy transition, possibly with an independent source of supplemental funding.