

D.T.E. 98-13F-1

Investigation pursuant to the Electric Restructuring Act, St. 1997, c. 164, §§ 239, 240 (G.L.

c. 164, §§ 94G, 94G½) by the Department of Telecommunications and Energy, to consider whether granting exemptions from some or all of the requirements of G.L. c. 164, §§ 94G and 94G½ (including fuel charges, performance reviews, and goal-settings) for Western Massachusetts Electric Company is in the public interest.

ORDER ON WESTERN MASSACHUSETTS ELECTRIC COMPANY'S

MOTION FOR CLARIFICATION

APPEARANCES: Steven Klionsky, Esq.

260 Franklin Street, 21st Floor

Boston, MA 02110

FOR: WESTERN MASSACHUSETTS ELECTRIC COMPANY

Respondent

Thomas F. Reilly, Attorney General

By: John M. Grugan, Assistant Attorney General

Joseph W. Rogers, Assistant Attorney General

Regulated Industries Division

Public Protection Bureau

200 Portland Street

Boston, Massachusetts 02114

Intervenor

I. INTRODUCTION

On August 31, 1999, the Department of Telecommunications and Energy ("Department") issued an Order in the captioned proceeding ("Order") directing Western Massachusetts Electric Company ("WMECo" or "Company") to return its March 1998 fuel adjustment charge ("FAC") over-recovery total to its ratepayers and granting exemptions from some of the requirements of G.L. c. 164, §§ 94G and 94G½. On September 13, 1999, the Company filed a motion for clarification of the Order ("Motion") on the following matters:

- How WMECo's pre-March 1998 FAC costs will be recovered in light of differing language in the Department's August 4, 1998 Hearing Officer Ruling, April 16, 1999 Order, and its August 31, 1999 Order;
- How WMECo's pre-March 1998 FAC costs will be recovered in performance review proceedings, if the Department determines, contrary to past practice, that these costs are to be recovered in such a proceeding or proceedings;
- How interest on WMECo's pre-March 1998 FAC under-recovery is to be calculated; and
- The timing and purpose of WMECo's reconciliation filing (Motion

at 10).

II. STANDARD OF REVIEW

Clarification of previously issued Orders may be granted when an Order is silent as to the disposition of a specific issue requiring determination in the Order, or when the Order contains language that is sufficiently ambiguous to leave doubt as to its meaning. Boston Edison Company, D.P.U. 92-1A-B at 4 (1993); Whitinsville Water Company, D.P.U. 89-67-A at 1-2 (1989). Clarification does not involve reexamining the record for the purpose of substantively modifying a decision. Boston Edison Company, D.P.U. 90-335-A at 3 (1992), citing Fitchburg Gas & Electric Light Company, D.P.U. 18296/18297, at 2 (1976). III. POSITION OF THE COMPANY

The Company contends that the four matters listed above are relevant to the proceeding and are not addressed by the Order (Motion at 2). Specifically, the Company states that its approximately \$24.5 million pre-March 1998 FAC under-recovery has been a part of this proceeding from the start and, as such, the under-recovery should have been addressed in the Order (*id.*). The Company relies on a hearing officer ruling issued previously in this proceeding, which states the following:

with the exception of the filings made in D.T.E. 98-13 and any subsequent performance review proceedings, the fuel expenses recovered by the companies through the fuel charge were prudently incurred. Therefore, the inclusion of the fuel charge reconciliation in the performance review proceedings would be unnecessary. Regarding the fuel expenses that the companies are seeking to reconcile in this proceeding, incorporating these fuel expenses in to the performance review proceedings would unnecessarily draw out the recovery or return of these funds and would unnecessarily draw out the recovery or return of these funds and would unnecessarily complicate the performance review proceedings with an unrelated matter. Therefore, the Attorney General's request . . . is denied. Fuel Charge Exemptions, D.T.E. 98-13 A-F, at 7 (August 4, 1998) ("Hearing Officer Ruling.")

IV. ANALYSIS AND FINDINGS

The Order states that the "resolution of the final balance of [WMECo's] ... fuel charge under-recovery will be determined in WMECo's outstanding performance review proceedings." On September 17, 1999, three days after WMECo filed this Motion, the Department issued another Order, Western Massachusetts Electric Company, D.T.E. 97-120 (1999), that further addresses the issues raised in WMECo's Motion:

Therefore, the deferred fuel account balance (\$122,000,000) net of the [March] 1998 fuel cost over-recovery and nuclear replacement power costs shall be recovered consistent with the reconciliation of the fuel charge established in D.T.E. 98-13F and the Company's performance review proceedings. The accumulated fuel charge under-recovery was the result of settlement agreements that did not provide for a return on any uncollected amount. Therefore, no return is allowed on any accumulated under-recovery through February 1999.

Western Massachusetts Electric Company, D.T.E. 97-120, at 61.

The resolution of WMECo's historic fuel charge under-recovery is best addressed in the Company's ongoing performance review proceeding. One of the purposes of WMECo's performance review proceeding will be to determine the amount of replacement power costs related to the outages at the Millstone nuclear generating units, which is the sole remaining factor needed to determine WMECo's net historic fuel charge under-recovery. In addition, the Department finds that the Company's concerns regarding the reconciliation filing will be addressed during its future reconciliation proceeding. For all these reasons, the Department finds its Order need not be clarified.

IV. ORDER

After due consideration, it is

ORDERED: That Western Massachusetts Electric Company's motion for clarification is DENIED.

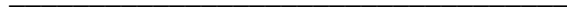
By Order of the Department,

Janet Gail Besser, Chair

James Connelly, Commissioner

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner



Eugene J. Sullivan, Jr., Commissioner