

D.T.E. 99-84

Investigation by the Department of Telecommunications and Energy on its own Motion to Establish Guidelines for Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies Pursuant to G.L. c. 164, § 1E.

ORDER OPENING A NOTICE OF INQUIRY/GENERIC PROCEEDING

TO ESTABLISH GUIDELINES FOR SERVICE QUALITY STANDARDS FOR ELECTRIC DISTRIBUTION COMPANIES AND LOCAL GAS DISTRIBUTION COMPANIES

I. INTRODUCTION

In this Order,⁽¹⁾ the Department of Telecommunications and Energy ("Department") solicits comments on the development of guidelines for service quality standards to be included in the performance-based regulation ("PBR") plans to be submitted by electric distribution companies and local gas distribution companies ("Utility Companies") pursuant to G.L. c. 164, § 1E.⁽²⁾ Section 1E authorizes the Department to promulgate rules and regulations to establish PBR rates for each Utility Company. The statute directs the Department to establish service quality standards that cover a variety of service quality categories. In complying with service quality standards, no labor displacement or reductions below staffing levels in existence on November 1, 1997, may take place unless they are part of a collective bargaining agreement or otherwise approved by the Department. G.L. c. 164, § 1E(b). In addition, the Department is "authorized to levy a penalty against any distribution, transmission, or gas company which fails to meet the service quality standards in an amount up to and including the equivalent of 2 per cent of such company's transmission and distribution service revenues for the previous calendar year." G.L. c. 164, §1E(c).

II. BACKGROUND

The Department first addressed the issue of PBR in a comprehensive fashion in Incentive Regulation for Electric and Gas Companies, D.P.U. 94-158, at 57 (1995), where we stated that we would evaluate and review incentive proposals on a utility-specific basis consistent with guidelines stated in that Order. Subsequently, in Electric Industry Restructuring, D.P.U. 96-100, at 116 (December 26, 1996), the Department stated that we expect PBR proposals to be part of each electric company's next base rate case submitted to the Department.

In New England Telephone & Telegraph Company, D.P.U. 94-50 (1995), the Department first established a price cap plan that included a service quality index ("SQI"). In Boston Gas Company, D.P.U. 96-50 (1996), the Department established a price cap plan that

included (a) a method for determining annual changes in the Company's rates, (b) a SQI plan, and (c) a penalty provision for under-performance of service quality.⁽³⁾ The Department has also approved a number of service quality plans in the context of electric industry restructuring filings and electric and gas company mergers, but noted that a more comprehensive investigation into SQI issues should take place in a generic proceeding. Boston Edison Company, D.T.E. 96-23, at 54-55 (1998); Eastern Edison Company, D.T.E. 96-24, at 89-90 (1997); Cambridge Electric Light Company/Commonwealth Electric Company/Canal Electric Company, D.T.E. 97-111, at 83 (1998); see also Bay State Gas Company, D.P.U. 97-97 (1997); NIPSCO-Bay State Acquisition, D.T.E. 98-31, at 29-32 (1998);⁽⁴⁾ Eastern-Essex Acquisition, D.T.E. 98-27, at 32-34 (1999). Finally, we announced our intention to open a generic proceeding to exercise our authority granted by G.L. c. 164, §1E regarding PBR. Eastern-Colonial Acquisition, D.T.E. 98-128, at 16 n.20 (1999); Boston Edison-Commonwealth Acquisition, D.T.E. 99-19, at 101 n.68 (1999).

III. DESCRIPTION OF THIS PROCEEDING

A. Issues to be Addressed

The Department intends to address two issues associated with two components of a PBR plan: (1) the service quality plan; and (2) the penalty mechanism that would apply to Utility Companies that fail to meet the service quality standards established in this proceeding. For the service quality plan, the NOI will address the types of performance measures that should be included in the plan, the manner by which performance should be measured, and the method by which benchmarks for employee staff levels and employee training programs will be established. For the penalty mechanism, the NOI will address the overall maximum penalty level, the maximum penalty level per performance measure, and the manner by which the penalty should be applied to a Utility Company.

The Department intends to use the policies, methods and procedures developed in this proceeding to review all PBR plans. Therefore, no entity shall file a new PBR plan with the Department until the close of this proceeding.⁽⁵⁾ While an entity seeking the Department's approval of a proposed PBR plan will not be precluded from requesting that an alternative policy, method or procedure be used by the Department due to entity-specific circumstances, the burden will be on that entity to demonstrate the compelling nature of such a request.

B. Procedural Schedule

The Department adopts the following procedure. The Department will issue initial questions no later than Friday, November 5, 1999. The Department will accept initial written comments on the issues and questions identified in the Order and subsequent questions no later than Friday, December 3, 1999; reply comments will be due no later than Wednesday, December 22, 1999. The Department encourages the filing of joint comments and will give them due consideration in the development of our guidelines. Based on comments received, the Department will establish a further procedural schedule

that may provide for technical sessions and/or hearings and will publish for comment draft guidelines regarding service quality standards for Utility Companies.

Whenever possible, comments should clearly indicate to which issue(s) and question(s) they are responsive. All comments exceeding twenty pages in length must be accompanied by an executive summary of no more than three pages. Comments may not exceed 50 pages in length. Commenters must, whenever possible, also provide an electronic copy of their comments, by one of two means: (a) e-mail attachment to Kimberly.Tran@state.ma.us, using a WordPerfect-compatible format, naming the document with a ".wpd" suffix and identifying in the e-mail the case caption, docket number party and title of pleading, or (b) on a 3.5" floppy diskette, IBM-compatible format, using a file format compatible with either Word Perfect 8.0, for textual responses, or with Microsoft Excel 5.0 for data/spreadsheet responses. One original and 20 copies of all comments should be filed with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110. A copy of the comments will be available for public inspection and/or purchase at the Department's offices during business hours. In addition, all comments submitted in electronic format will be posted on the Department's website at <http://www.magnet.state.ma.us/dpu/>.

IV. ORDER

Accordingly, the Department hereby

VOTES: To open an inquiry, pursuant to G.L. c. 164, §E, in order to establish guidelines for service quality standards and penalties for each electric distribution company and local gas distribution company organized and doing business in Massachusetts; and it is

ORDERED: That within seven days of the date of this Order, the Secretary of the Department shall publish the accompanying Notice of Inquiry/Generic Proceeding in all statewide and regional newspapers of daily circulation within Massachusetts; and it is

FURTHER ORDERED: That the Secretary of the Department shall serve a copy of this Order on each electric distribution company and local gas distribution company organized and doing business in Massachusetts by mail; and it is

FURTHER ORDERED: That Secretary of the Department shall serve a copy of this Order on all persons that have asked to be placed on a general notification list pursuant to 220 C.M.R. § 2.09 by mail; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company shall refrain from filing a PBR plan with the Department until three months of the date of the Final Order in this Notice of Inquiry/Generic Proceeding.

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

ATTACHMENT I

NOTICE OF INQUIRY/GENERIC PROCEEDING

D.T.E. 99-84

Investigation by the Department of Telecommunications and Energy on its own Motion to Establish Guidelines for Service Quality Standards for Electric Distribution Companies and Local Gas Distribution Companies Pursuant to G.L. c. 164, § 1E.

On October 29, 1999, the Department of Telecommunications and Energy ("Department") issued an Order instituting a Notice of Inquiry ("NOI")/Generic Proceeding to establish guidelines for service quality standards for electric distribution companies and local gas distribution companies pursuant to G.L. c. 164, § 1E.

The Department intends to address two issues associated with two components of a performance based regulation ("PBR") plan: (1) the service quality plan; and (2) a penalty mechanism that would apply to distribution companies that fail to meet the service quality standards established in this proceeding. For the service quality plan, the NOI will address the types of performance measures that should be included in the plan, the manner by which performance should be measured, and the method by which benchmarks for employee staff levels and employee training programs will be established. For the penalty mechanism, the NOI will address the overall maximum penalty level, the maximum penalty level per performance measure, and the manner by which the penalty should be applied to a company.

A copy of the Order instituting this investigation will be mailed to all electric and local gas distribution companies and to all persons that have asked to be placed on a general notification list pursuant to 220 C.M.R. § 2.09. In addition, a copy of the Order will be available at the Department's offices located at One South Station, 2nd Floor, Boston, Massachusetts 02110 for public inspection during business hours and will be posted on our website, <http://www.magnet.state.ma.us/dpu/>.

The Department intends to use the policies, methods and procedures developed in this proceeding to review all PBR plans, therefore, no entity shall file a new PBR plan with the Department until the close of this proceeding. While an entity seeking the Department's approval of a proposed PBR plan will not be precluded from requesting that an alternative policy, method or procedure be used by the Department due to entity-specific circumstances, the burden will be on that entity to demonstrate the compelling nature of such a request.

The Department adopts the following procedure. The Department will issue questions no later than Friday, November 5, 1999. The Department will accept written comments on the issues identified in the Order and subsequent questions no later than Friday December 3, 1999, for initial comments; and Wednesday, December 22, 1999, for reply comments. The Department encourages the filing of joint comments and will give them due consideration in the development of our guidelines. Based on input from the comments, the Department will establish a further procedural schedule that may provide for technical sessions and/or hearings and will publish for comment draft guidelines.

Whenever possible, comments should clearly indicate to which issue(s) and question(s) they are responsive. All comments exceeding twenty pages in length must be accompanied by an executive summary of no more than three pages. Comments may not exceed 50 pages in length. Commenters must, whenever possible, also provide an electronic copy of their comments, by one of two means: (a) e-mail attachment to Kimberly.Tran@DPU.state.ma.us, using a WordPerfect-compatible format, naming the document with a ".wpd" suffix and identifying in the e-mail the case caption, docket number party and title of pleading, or (b) on a 3.5" floppy diskette, IBM-compatible format, using a file format compatible with either Word Perfect 8.0, for textual responses, or with Microsoft Excel 5.0 for data/spreadsheet responses. One original and 20 copies of all comments should be filed with **Mary L. Cottrell, Secretary, Department of**

Telecommunications and Energy, One South Station, Boston, Massachusetts 02110.

A copy of the comments will be available for public inspection and/or purchase at the Department's offices during business hours. In addition, all comments submitted electronically will be posted on the Department's website at <http://www.magnet.state.ma.us/dpu/>.

By Order of the Department,

Mary L. Cottrell, Secretary

1. This Order requires the Secretary of the Department of Telecommunications and Energy to publish the legal notice provided in Attachment I in all statewide and regional newspapers of daily circulation within Massachusetts, and to disseminate a copy of this Order to all persons that have asked to be placed on a general notification list pursuant to 220 C.M.R. § 2.09.

2. Chapter 164 of the Acts of 1997, entitled "An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein" ("Restructuring Act" or "Act").

3. Portions of our Order are under appeal. Other appealed portions are on voluntary remand. Boston Gas Company v. Dep't Telecommunications and Energy,

SJ-1997-0323.

4. In NIPSCO-Bay State Acquisition, D.T.E. 98-31 (1998), the Department directed Bay State Gas Company ("Bay State") to maintain its current SQI plan until 2004, unless a new plan was approved by the Department. On August 17, 1999, Bay State filed a new SQI plan for Department review and approval. This matter is docketed as D.T.E. 99-72. The Department will take no further action on this docket until the conclusion of the present generic investigation.

5. In its last base rate case, Fitchburg Gas and Electric Light Company ("Fitchburg" or "Company") was ordered to submit a PBR filing including proposed service quality indices and performance standards on or before November 30, 1999. Fitchburg Gas and Electric Light Company, D.T.E. 98-51, at 5-7 (1998). In order to incorporate the policies, methods and procedures developed in this proceeding in Fitchburg's PBR plan, the Company is directed to refrain from filing a PBR filing with the Department until three months after the date of the Final Order in this Notice of Inquiry/Generic Proceeding.