



The Commonwealth of Massachusetts
DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 07-47-A

October 1, 2008

Petition of the Cape Light Compact for approval by the Department of Public Utilities of its Revised 2007-2012 Energy Efficiency Plan.

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FOR: CAPE LIGHT COMPACT
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I. INTRODUCTION

On March 1, 2007, the Cape Light Compact (“Compact”) filed its 2007-2012 Energy Efficiency Plan (“Plan”) that included projected expenditures for the Compact’s energy efficiency programs. The Compact, a governmental aggregator formed pursuant to G.L. c. 164, § 134, is comprised of 21 towns and two counties. The Compact filed its Plan consistent with the requirements of G.L. c. 25, § 19, G.L. c. 25A, § 11G, and Order Promulgating Final Guidelines to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000) (“Energy Efficiency Guidelines”). The Plan was approved by the Department of Public Utilities (“Department”) on December 24, 2007. Cape Light Compact, D.P.U. 07-47 (2007).

By Letter Order dated July 25, 2008, the Department directed all Massachusetts energy efficiency Program Administrators¹ to submit a proposal to increase spending for residential heating programs for the 2008 winter season, stating that “there is an urgent need to expand funding for existing residential gas and electric energy efficiency programs in order to respond to the potential for very high heating costs in the coming months.” Request to Increase Funding for Residential Energy Efficiency Programs, Letter Order (July 25, 2008) (“Letter Order”).² The Compact submitted its proposal to increase funding for residential energy efficiency programs on August 15, 2008 (“Revised Plan”). The Department requested

¹ Program Administrators are those entities that administer energy efficiency programs, including distribution companies and municipal aggregators. Energy Efficiency Guidelines § 2.

² The Letter Order was issued in response to a request made to the Department by the Massachusetts Department of Energy Resources in a letter dated July 16, 2008.

comments on all Program Administrators' revised plans by August 25, 2008. Request to Increase Funding for Residential Energy Efficiency Programs, Hearing Officer Memorandum (August 1, 2008). Comments were received from Associated Industries of Massachusetts ("AIM"), the Attorney General of the Commonwealth of Massachusetts ("Attorney General"), the Conservation Law Foundation ("CLF"), the Massachusetts Department of Energy Resources ("DOER"), Environment Northeast ("ENE"), the Low-Income Energy Affordability Network ("LEAN"), and Wal-Mart Stores East, L.P. ("Wal-Mart"). The Department requested reply comments on all Program Administrators' Revised Plans by September 5, 2008. Request to Increase Funding for Residential Energy Efficiency Programs, Hearing Officer Memorandum (August 27, 2008). Reply comments were received from the Compact³, ENE, LEAN, and The Energy Consortium ("TEC"). The evidentiary record includes one response to an information request.⁴

II. 2008 REVISED ENERGY EFFICIENCY PLAN

A. Introduction

In the Department's July 25, 2008 Letter Order at 1, we directed the Program Administrators to submit a proposal "that will allow for the implementation of the maximum achievable level of cost-effective expenditures on residential heating programs for the

³ The Compact its reply comments on August 26, 2008 and supplemental reply comments on September 5, 2008.

⁴ On its own motion, the Department moves into the evidentiary record of this proceeding the Compact's response to Information Request DPU 2-1.

remainder of 2008.” In support of their proposals, the Department directed the Program Administrators to submit the following information: (1) the energy efficiency programs that are targeted at residential heating end uses; (2) the additional dollars the company projects it can spend in a cost-effective manner; (3) the constraints that limit the additional dollars the company projects it could spend cost-effectively; (4) the additional number of residential customers that will be served; (5) the additional kilowatt-hour (“kWh”) or kilowatt savings that will be expected to be achieved; (6) the dollar savings on monthly bills that additional participants will be expected to realize; (7) the effect on the cost-effectiveness of the applicable programs; and (8) the Company’s proposed mechanism for recovery of incremental costs.

Letter Order at 2.

B. Revised Plan

The Compact proposes to increase spending by \$357,000 on three residential programs:

- The low-income single family program, which provides low-income customers in single-family dwellings with assistance in purchasing and installing efficient lighting, appliances, and weatherization measures;
- The low-income multi-family program, which provides owners and managers of low-income multi-family dwellings with assistance in purchasing and installing efficient lighting, appliances, and space heating measures; and
- The residential Massachusetts home energy services program (“MassSAVE”), which provides interested residential customers with a home energy audit and financial incentives for numerous electric and non-electric (such as thermal and space heating) efficiency measures.

(Revised Plan at 6, App. A at 3-4). Table 1, below, summarizes the information provided by the Compact regarding the increased spending on these programs:

Table 1

Program	Additional Spending		Increased Savings		New Customers	Monthly Savings (\$)	Benefit/Cost Ratio Including Ramp up
	\$	% Incr.	kWh (annual)	% Incr.			
MassSAVE	260,000	20.86	142,000	17.31	1,025	7-11	3.36
Low-Income Single Family	70,000	11.63	158,000	28.53	75	39-69	4.94
Low-Income Multi-Family	27,000	40.38					6.24

(Revised Plan at 6, App. B, App. F, App. G, App. H). The Compact states that the main constraint that limits its ability to spend additional dollars cost-effectively is the staffing ability of its vendors and qualified sub-contractors (id. at 7).

In addition to increasing the budget for the MassSAVE Program, the Compact proposes the following program design changes:

- an increase in the customer incentive from the current level of 50 percent to 100 percent of costs, for customers with incomes that range between 60 percent and 80 percent of the median income;
- an increase in the customer incentive from 50 percent to 75 percent of the value of eligible installed thermal measures, up to \$2,000, for customers with household incomes above 80 percent of median income; and
- a modification of the current heat loan offer to allow customers to receive both the zero percent loan up to \$10,000, and incentives and rebates for eligible program measures.

The Compact also proposes to increase its efforts regarding the outreach and promotion of programmable thermostat rebates and weather sensitive heating system controls through retailers, distributors, and heating contractors (Revised Plan, App. A at 4).

C. Cost Recovery

The Compact proposes a two-fold mechanism for recovery of incremental expenditures. Specifically, the Compact proposes to implement: (1) a fully reconciling funding mechanism administered by NSTAR Electric Company (“NSTAR Electric”), to become effective January 1, 2009, if approved by the Department;⁵ and (2) pre-approval of interim “overspending” through short-term borrowing at the government bond rate, if required, which would be recouped as program costs in the 2009 energy efficiency plan filing (Revised Plan at 9).

III. COMMENTS

A. Introduction

The majority of comments were of a general nature, applicable to most or all of the Program Administrators’ revised gas and electric plans. In addition, certain comments were specific to an individual Program Administrator’s revised plan. General and Compact-specific comments are each summarized below.

⁵ The Compact and NSTAR Electric are parties to an energy efficiency plan operating agreement which allows NSTAR Electric to collect energy efficiency funds through a system benefits charge on behalf of the Compact and transfer those funds to the Compact for the Compact’s energy efficiency programs (Revised Plan at 9). The Compact states that it has coordinated with NSTAR Electric on the details of NSTAR Electric’s proposed reconciling funding mechanism, wherein NSTAR Electric would collect the increased funding for its winter 2008 proposal through an adjustment to the distribution charge to become effective January 1, 2009 (id. at 10).

B. General Comments

1. Program Budgets

AIM argues that the Department's request for increased funding for energy efficiency programs is an overreaction to a temporary rise in energy prices and, accordingly, that any increased spending should be delayed until 2009 (AIM Comments at 1-2). While the Attorney General does not challenge the need for increased energy efficiency funding to reduce low-income and residential customer heating bills this winter, she argues that the proposals fail to provide the detailed information required by the Department and, therefore, raise several substantive and procedural issues (Attorney General Comments at 3). For example, the Attorney General asserts that most proposals do not provide detailed budget increases, as required by the Department (id. at 4). Without such information, the Attorney General argues that the Department cannot ascertain where the additional funds will be spent, the extent that customers will benefit, or whether all proposed programs will be cost-effective (id. at 7).

DOER states that electric Program Administrators have proposed Revised Plans with significant increases of at least 30 percent over 2008 budgets for residential and low-income programs. However, DOER states that gas energy efficiency proposals vary widely (DOER Comments at 3). DOER argues that all gas proposals should increase budgets at least as much as electric proposals and that all cost-effective residential program budgets should be increased (id.).

LEAN agrees that an immediate increase in energy efficiency program budgets is necessary. Furthermore, LEAN contends that the revised plans must be approved as soon as

possible, otherwise the Program Administrators will be unable to implement the programs for this winter (LEAN Comments at 1-2). TEC notes that the cost to advance known projects will be minimal and will not diminish program cost-effectiveness and, therefore, recommends that Program Administrators advance current heating contracts by paying contractors overtime or a performance incentive to complete projects as soon as possible (TEC Reply Comments at 2).

ENE states that, by its calculations, there is a large spread in proposed budget increases among the Program Administrators (ENE Comments at 4). So that the revised plans are directly comparable, ENE recommends that the Department or DOER require the Program Administrators to submit identical spreadsheets that include proposed spending levels by customer class on a per customer and per unit of energy sold basis (*id.* at 3-4). ENE also states that, in some revised plans, budgets appear to be reduced and that the Department should not approve any reductions without good reason (*id.* at 4).

2. Funding Mechanisms

The Attorney General contends that many of the electric proposals contain insufficient detail about the sources of additional funding. The Attorney General states that, in order for the Department to approve funding mechanisms that collect additional money from customers, the Department must consider the effect on residential and commercial customers and the availability of private or public funds (Attorney General Comments at 13, *citing* St. 2008 c. 169, § 11). In addition, the Attorney General argues that any new reconciling rate mechanism designed to recover incremental energy efficiency program costs must be subject to a hearing before the Department under G.L. c. 164, § 94 to establish just and reasonable rates

(id. at 14-15, citing Consumers Organization For Fair Energy Equity, Inc. v. D.P.U., 368 Mass. 599, 606 (1975)). Wal-Mart also asserts that any request to approve a funding mechanism for incremental energy efficiency expenditures requires a thorough investigation that includes discovery and an evidentiary hearing (Wal-Mart Comments at 2-3). CLF suggests that any new energy efficiency tariffs or reconciling mechanisms should be considered by the Department in a separate proceeding (CLF Comments at 1-2).

DOER states that proposals to recover lost based revenues through various mechanisms is a departure from current practice that must be thoroughly reviewed by the Department (DOER Comments at 3). Finally, LEAN states that significant consumer savings can only occur if energy efficiency measures are fully funded and that funding is allowed to rollover from year to year (LEAN Comments at 2).

3. Scope of Proposed Energy Efficiency Programs

The Attorney General states that the revised plans go beyond the scope of the Department's directives. First, the Attorney General states that some revised plans include spending increases for programs that are not designed to reduce heating costs for residential customers (Attorney General Comments at 4-5).⁶ In addition, the Attorney General states that

⁶ For example, the Attorney General states that nearly all gas companies and some electric companies propose to change the income eligibility level from 60 percent to 80 percent of the Commonwealth's median income for low-income energy efficiency programs (Attorney General Comments at 11). The Attorney General argues that the low-income eligibility issue is the subject of Investigation into Issues Affecting Low-Income Customers, D.P.U. 08-4, and, therefore, should not be considered by the Department in the instant proceeding (id. at 11-12). In contrast, LEAN contends that
(continued...)

many proposals include new programs and program changes (id. at 11). The Attorney General argues that such program changes and new programs require more investigation than is allowed for in this expedited review (id. at 12). Accordingly, the Attorney General recommends that the Department deny any request to implement new programs or changes to existing programs (id.). Alternatively, the Attorney General suggests that Program Administrators could implement new pilot programs and other initiatives without Department approval if shareholders agree to fund the programs (id.).

Unlike the Attorney General, LEAN supports increased budgets for energy efficiency measures that are not directly related to heating (LEAN Reply Comments at 2). LEAN argues that any measure that reduces utility bills will help customers this winter (LEAN Comments at 2).

DOER states that, despite the Department's focus on approving only residential heating programs, it should consider allowing "stop-gap" proposals that address large unmet demand in cost-effective commercial and industrial ("C&I") programs (DOER Comments at 3). However, AIM contends that funding for C&I programs should not be increased this winter because the lead time to implement these programs is long (AIM Comments at 3). Rather, AIM suggests that C&I programs should be considered for budget increases in 2009 (id.).

⁶ (...continued)
there is no valid reason to deny proposals that make energy efficiency measures more affordable to households with incomes between 60 and 80 percent of the median income (LEAN Reply Comments at 2).

Finally, CLF agrees that proposals to increase funding for C&I programs should be deferred to proceedings on the 2009 energy efficiency plans (CLF Comments at 1).

4. Performance Incentives

The Attorney General suggests the Program Administrators forgo shareholder incentives to help customers this winter (Attorney General Comments at 11). DOER states that increased spending levels may necessitate adjustments to shareholder incentives to avoid inappropriate gains by Program Administrators (DOER Comments at 3).

C. Compact-Specific Comments

1. Program Budgets

The Attorney General contends that the budget information provided by the Compact is insufficient and lacks details on information that is necessary for the Department to approve the Revised Plan (Attorney General Comments at 7). Specifically, the Attorney General states that the Compact fails to: (1) provide a value for the additional dollars that they propose to spend on energy efficiency programs targeted at end-uses; (2) discuss constraints on program expansion; (3) provide the dollar savings customers are expected to realize on their monthly bills; and (4) provide the number of customers that will be helped by each program (id. at 9-10).

In its reply comments, the Compact provided additional information that the Attorney General identified as missing from the Compact's Revised Plan. The Compact provided the additional dollars the Compact proposes to spend on programs that target heating end-uses. The Compact states that these numbers are estimates provided by the Compact's vendors and

include only the vendor's costs for expanding existing programs (Compact Reply Comments at 3). The Compact states that the main constraints on program expansion are staffing of its vendors and a shortage of qualified subcontractors, in addition to the short time frame for ramping up services (id.). The Compact clarifies that the average estimated dollar savings are \$11 per month and \$69 per month for residential RCS/MassSAVE and low-income program customers, respectively (Compact Supplemental Reply Comments at 2). The Compact estimates that 75 additional customers will be served by the low-income programs and 1,025 additional customers will be served by RCS/MassSAVE for a total of 1,100 additional customers served pursuant to its Revised Plan (id. at App. H).

2. Funding Mechanisms

The Attorney General and Wal-Mart commented on the Compact's funding mechanism as it relates to NSTAR Electric's proposed modification to its existing energy efficiency charge ("EEC") tariff to include an energy efficiency reconciliation factor ("EERF") (see NSTAR Electric's Revised Plan at 2-3). The Attorney General states that NSTAR Electric fails to provide important details about the magnitude and effect of the tariff changes on customer rates and that the Department should either reject outright or request clarification and modification of the proposed tariff (Attorney General Comments at 15). Further, the Attorney General and Wal-Mart contend that NSTAR Electric's proposed tariff will increase rates and, therefore, a hearing is required pursuant to G.L. c. 164, § 94 in order to determine whether the new rates are just and reasonable (Attorney General Comments at 14-15, Wal-Mart Comments at 2-3).

Wal-Mart recommends that the Department delay a decision on NSTAR Electric's proposed tariff changes until a full investigation can be conducted (Wal-Mart Comments at 4).

In regards to the Compact, the Attorney General contends that the EERF would be charged to all of NSTAR Electric's customers, including those in the Compact's service area (Attorney General Comments at 17). The Attorney General states that it is unclear: (1) how the application of the tariff formula will avoid subsidies flowing between customers who reside in the Compact's service area and those that do not; and (2) whether the Compact's funding will benefit or suffer from variances in NSTAR Electric's level of costs and revenues from other sources as well as from variance in the actual kWh deliveries (id.).

In response, NSTAR Electric argues that the Attorney General and Wal-Mart are incorrect in their assertion that a general rate case is required for approval of its proposed EEC tariff (NSTAR Electric Reply Comments at 2). NSTAR Electric argues that the proposed EEC tariff is focused on collecting energy efficiency program costs and not the NSTAR Electric's cost of service; thus, G.L. c. 164, § 94 is not applicable (id.). NSTAR Electric does, however, state that it has no objection to the Department holding a separate hearing and investigation into the proposed tariff (id.).

The Compact agrees that the Department may consider tariff revisions proposed by NSTAR Electric in a separate investigation. The Compact urges that the Department not allow questions regarding the proposed tariff revisions in this proceeding to prevent or delay approval of the Compact's Revised Plan (Compact Supplemental Reply Comments at 4-5). The Compact argues that it is a governmental body and lacks the budget flexibility to assume

financial liability without assurance that it will recover all of its costs associated with overspending on energy efficiency programs (id.).

3. Scope of Proposed Energy Efficiency Programs

The Attorney General states that the Compact's proposal contains increased budgets for residential programs that have little to do with heating costs, including increases for marketing activities, lighting rebates, appliance rebates, and administrative costs (Attorney General Comments at 5-6). The Attorney General argues that marketing and outreach costs must be related to heating for the budget increases to be approved (id.).

In response, the Compact affirms that each of the programs that it has identified for additional funding in the Revised Plan relate to heating measures (Compact Reply Comments, at 2). The Compact further states that no additional funds will be allocated to administrative costs or marketing and outreach as a result of the Revised Plan (id.).

IV. ANALYSIS AND FINDINGS

A. Introduction

In order for the increased spending to provide benefits to customers during the 2008 winter season, it is necessary for the Company to accelerate implementation of cost-effective energy efficiency programs as soon as possible. Nevertheless, the Department still has the obligation to apply its review criteria in the Energy Efficiency Guidelines, which require that the Company's energy efficiency programs be cost-effective. Energy Efficiency Guidelines §§ 4.2.1(a), 6.2.

An energy efficiency program is deemed cost-effective if its benefits are equal to or greater than its costs, as expressed in present value terms. The Department evaluates program cost-effectiveness using the Total Resource Cost (“TRC”) test, which considers the costs and benefits to both the energy system and the participating customers. Id. at § 3. Energy system costs are comprised of two components: (1) Program Administrator costs, including costs to develop, plan, administer, implement, market, monitor, and evaluate programs; and (2) a performance-based shareholder incentive. Id. at § 3.2.2. Program participant costs include all costs incurred by customers as a result of their participation in the programs, net of company rebates and other incentives. Id. at § 3.2.3.

B. Revised Plan

The Compact proposes to increase spending on three residential programs: (1) low-income single family; (2) low-income multi-family; and (3) RCS/MassSave. As discussed in Section II.B, above, the Compact provided information on: (1) the additional dollars it proposes to spend; (2) the additional kWh savings that will be achieved; (3) the additional number of customers that will be served; (4) the dollar savings on monthly bills that additional participants will be expected to realize; and (5) the benefit/cost ratio with the increased spending levels. The Compact projects that all of these programs will remain cost-effective at the increased spending levels.

The Compact proposes to increase customer rebate levels in the RCS/MassSave program (Revised Plan, App. A at 4). The Department’s July 25, 2008 Letter Order was silent regarding whether we would allow Program Administrators to make changes to program

designs for the remainder of 2008. The Department generally encourages the adoption of program design changes that improve the efficiency and cost-effectiveness of the delivery of energy efficiency services to customers. In light of the need to increase spending on residential heating programs as soon as feasible, however, the Department must limit the types of program design changes that we will allow at this time. Accordingly, we will allow only those program design changes that (1) are not a significant departure from current program designs, and (2) will have no affect on the program's cost-effectiveness.

The Department finds that the Compact's proposed changes to the RCS/MassSave Program are not a significant departure from current program design. Under the TRC test, costs incurred by both Program Administrators and program participants are included in the cost-effectiveness analysis. Therefore, increases in the level of customer rebates paid by a Program Administrator do not affect a program's total cost-effectiveness, because the additional costs incurred by the Program Administrator are fully offset by the reduced costs incurred by program participants. Accordingly, the Department approves the Compact's proposal to increase the customer rebates for its RCS/MassSAVE Program.

The Attorney General argues that the Company's increased budget goes beyond the Department's directives because a portion of the additional dollars will be spent on non-heating measures. However, the Compact affirms that each of the programs that it has identified for additional funding in the Revised Plan relate to heating measures (Compact Reply Comments, at 2). In directing Program Administrators to propose increased funding for residential heating programs, the Department did not intend to limit additional spending strictly to heating

measures. Instead, we intended for Program Administrators to focus their efforts on programs for which a primary target is heating end-uses. It has long been Department policy that companies should comprehensively pursue all cost-effective opportunities when delivering energy efficiency services to a customer, in order to avoid lost opportunities. Investigation into Pricing and Ratemaking Treatment of New Electric Generating Facilities which are not Qualifying Facilities, D.P.U. 86-36-F at 25 (1988). Further, the Compact provided additional information in its reply comments and supplemental reply comments regarding its Revised Plan to address the Attorney General's concerns. In total, we find that the Company has provided sufficient information to enable the Department to review and assess whether the Company's energy efficiency programs in the Revised Plan are cost-effective.

The Department concludes that, based on the information included in the Revised Plan, reply comments, and supplemental reply comments, the Compact (1) satisfied the requirements set forth in our July 25, 2008 Letter Order, and (2) sufficiently demonstrated the cost-effectiveness of the programs for which it proposes to increase spending. Therefore, the Department finds that the Compact has complied with our directive to submit a proposal that achieves the maximum level of cost-effective expenditures on residential heating programs for the remainder of 2008, and directs the Compact to revise its 2008 budgets for these programs consistent with spending levels included in its Revised Plan.

C. Cost Recovery

As discussed in Section II.C, above, the Compact proposes a two-fold mechanism for recovery of incremental expenditures: (1) a fully reconciling funding mechanism administered

by NSTAR Electric, to become effective January 1, 2009; and (2) pre-approval of interim overspending through short-term borrowing at the government bond rate, to be recovered as program costs in the 2009 energy efficiency plan filing. With respect to NSTAR Electric's fully reconciling funding mechanism, the Department found that it must be fully investigated prior to implementation. See NSTAR Electric Company, D.P.U. 08-10-A at 19-21 (2008). Accordingly, the Department does not accept the reconciling funding mechanism coordinated between the Compact and NSTAR Electric at this time. The Compact will be allowed to recover the increased 2008 budget amounts approved in this Order through its 2009 energy efficiency budget. Consistent with Department practice for electric distribution companies, the Compact may recover carrying costs associated with the amount by which its 2008 energy efficiency expenditures exceed its revenues.⁷ The under-recoveries from 2008 residential programs should be recovered from 2009 residential budgets. For low-income programs, 2008 under-recoveries should be collected from the 2009 budgets of all customer classes, based on each class' proportional contribution to low-income programs in the 2009 energy efficiency plan budgets.

⁷ See Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, D.P.U. 08-8, at 31 (2008); NSTAR Electric Company, D.P.U. 08-10, at 29-30 (2008); Fitchburg Gas and Electric Light Company, D.P.U. 08-30, at 24 (2008).

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 20 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 20 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. Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971.