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A non-profit Association of Industrial, Commercial, Institutional and Governmental Large Energy Users

December 3, 2007

Mary L. Cottrell
Secretary of the Department
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.P.U. 07-50, Investigation by the Department of Public Utilities on its own motion into Rate Structures that will promote Efficient Deployment of Demand Resources, Reply Comments

Dear Ms. Cottrell:

This letter presents the reply comments of The Energy Consortium (TEC) in this proceeding. We recommend that the DPU consider three basic points in its deliberations regarding the issues raised in this proceeding.

First, the initial comments filed in this proceeding demonstrate that there is no consensus regarding the design of a decoupling mechanism that would be in the public interest at this point in time;

Second, the DPU should establish a process to reach consensus regarding the design and implementation of a decoupling mechanism that would be in the public interest; and

Third, a decoupling mechanism in the public interest would have at least these three key attributes

- adjustments to rates for changes in customer usage limited to reductions attributable to utility energy efficiency and demand response programs;
- initial (benchmark) rates set in a general rate proceeding and reflecting the new allocation of risk between shareholders and customers; and
- a “consolidated” filing and proceeding to consider a single comprehensive adjustment to rates to occur no more often than annually.

We discuss each comment below.

First, the initial comments filed in this proceeding demonstrate that there is no consensus regarding the design of a decoupling mechanism that would be in the public interest at this point in time.

The purpose of this generic inquiry is to investigate whether it would be in the public interest to change current rate structures and revenue recovery mechanisms in order to reduce disincentives to the efficient deployment of demand resources in Massachusetts. The initial comments demonstrate that the parties to this proceeding generally agree that efficient deployment of energy efficiency and demand resources is in the public interest. However, those comments also demonstrate that there is no consistency among parties regarding the design of a decoupling mechanism that would be in the public interest.

The basis for this apparent inconsistency is presented in the initial comments filed by several parties who represent most, if not all, of the ratepayers in Massachusetts.¹ These parties raise three concerns.

1. The proceeding was not structured to identify the changes in policies, rate structures and revenue recovery mechanisms that would promote efficient deployment of demand resources in the optimal manner. Specifically, the proceeding did not provide an opportunity for the Department to consider the full range of policy changes within its authority that could promote efficient deployment of demand resources in Massachusetts, or even the full range of potential changes to current rate structures and revenue recovery mechanisms. Instead, the proceeding has been limited to decoupling mechanisms only and, hence, has only considered the elimination of a potential utility disincentive. There may be other changes to rate structures that would achieve the same goal of efficient deployment of demand resources but in a manner more in the public interest. Such alternative approaches might entail removing customer disincentives or by providing positive incentives to utilities.

2. There is no guarantee and little, if any, evidence that the implementation of a decoupling mechanism will cause utilities to materially increase their deployment of demand resources. In fact, the primary factors that could lead to a material increase in the deployment of demand resources within Massachusetts appear to be increased funding for ratepayer funded efficiency programs and changes in building codes and appliance standards. Both of those factors are beyond the control of utilities. Thus, there is a danger that utilities will implement decoupling mechanisms, but will not respond with a material increase in deployment of demand resources.

3. The decoupling proposals presented in the DPU's "straw man" and the initial comments of the utilities do not balance the interests of consumers with the interests of utilities. Instead they represent a sweeping change that shifts risk from utilities to ratepayers and leads to more frequent increases in rates. These proposals provide clear, significant benefits to utilities. In fact, it appears

¹ In addition to TEC the parties include the Attorney General, the Low Income Weatherization and Fuel Assistance Program Network, the Massachusetts Energy Consumers Alliance, the Retailers Association of Massachusetts, the Greater Boston Real Estate Board, the Massachusetts Food Association, the National Association of Industrial and Office Properties, the Associated Industries of Massachusetts, the Western Massachusetts Industrial Group, the Massachusetts Hospital Association and Wal-Mart Stores East.

that some proponents see decoupling as simply one more mechanism through which to adjust rates, in addition to the existing array of adjustments for performance based ratemaking (PBR) plans, pension expense, post-retirement other than pension expense, bad debt, gas cost, etc. In contrast, those decoupling proposals do not provide obvious, comparable benefits to ratepayers or make Massachusetts more attractive to businesses and institutions seeking to invest in new or expanded facilities.

Second, the DPU should establish a process to reach consensus regarding the design and implementation of a decoupling mechanism that would be in the public interest.

TEC agrees that efficient deployment of demand resources is in the public interest. We also believe that it may be possible to reach consensus regarding the design of a decoupling mechanism that would be in the public interest. Therefore, if the DPU does decide to proceed with a decoupling mechanism, we suggest that the DPU establish a process to reach such a consensus through workshops or a collaborative in which all parties could interact and actively participate.

If the DPU does decide to proceed with a decoupling mechanism, we suggest that it be implemented by scheduling utility base rate case filings according to each utility's estimated magnitude of untapped potential (largest to smallest), and after that according to the length of time since the utility's last general rate case.

Third, a decoupling mechanism in the public interest would have at least three key attributes – (1) adjustments to rates for changes in customer usage limited to reductions attributable to utility demand response programs; (2) initial (benchmark) rates set in a general rate proceeding and reflecting the new allocation of risk between shareholders and customers; and (3) a single “consolidated” adjustment filing and proceeding, no more often than annually, that would incorporate decoupling adjustments along with any other existing adjustments that the DPU decides should continue to operate.

The parties representing ratepayers in Massachusetts have expressed opposition to decoupling for several reasons, including a lack of balance between the interests of utilities and the interests of consumers. However, if a decoupling mechanism is to be implemented, it could be designed to achieve a more equitable balance between those two groups.

1. The design should limit rate adjustments for changes in customer usage attributable to utility demand response programs, i.e., partial decoupling. Under this approach distribution rates would be adjusted only to account for reductions in company recovery of margins directly related to verified reductions resulting from incremental efficiency programs and demand response initiatives. This approach would eliminate the disincentive associated with utility demand-side programs in a manner that minimizes the adverse impacts on the Department's various other ratemaking objectives, in particular the shift in risk from utility shareholders to ratepayers. This approach also maintains a strong financial incentive for utilities to provide reliable service – i.e., the prospect of lost margins from outages, from delays in connection or reconnection, or from speedy accommodation of new customers.

2. The design should require that initial (benchmark) rates be set in a general rate proceeding, and that they reflect the new allocation of risk between shareholders and customers.

It is essential that any “allowed revenues per customer” to be used as a reference in any decoupling mechanism be established in a general base rate proceeding. That reference should reflect the required return on equity (ROE) and capital to debt ratios consistent with the shift in risk from shareholders to ratepayers. The design of any shared earnings provision should include an earnings cap (excess earnings to be refunded 100%) and should be part of the discussion in a collaborative.

3. The design should require a single “consolidated” filing and proceeding to consider all potential eligible adjustments to rates. The goal is to move to a single comprehensive adjustment that would incorporate any of the various existing individual adjustments that the DPU decides should continue to operate in addition to the decoupling adjustment. The filing and review of supporting data for such adjustments should occur no more frequently than annually. The need to review and respond to adjustments to rates, and the underlying filings and proceedings, more frequently than once each year would be unduly burdensome to all parties and would create serious uncertainties for customers with respect to setting budgets and operating plans. The detailed design of a specific rate adjustment mechanism should include a threshold level of change to be exceeded before a rate adjustment or surcharge is approved, as well as an annual cap on the level of any surcharge.

Conclusion

TEC appreciates this opportunity to provide input to the Department’s deliberations on this important issue.

Yours truly,

A handwritten signature in blue ink that reads "Roger Borghesani". The signature is written in a cursive, flowing style.

Roger Borghesani
Chairman, The Energy Consortium, Inc.