



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

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Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines Consistent with An Act Relative to Green Communities.

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I. INTRODUCTION

On July 2, 2008, An Act Relative to Green Communities, Acts of 2008, chapter 169 (“Green Communities Act” or “Act”) was signed into law. The Green Communities Act mandates significant changes to the energy efficiency programs developed and administered by the Commonwealth’s electric and gas distribution companies and municipal aggregators (together, “Program Administrators”). Specifically, Program Administrators are required to develop energy efficiency plans that will “provide for the acquisition of all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply.” G.L. c. 25, § 21(b)(1). To accomplish this goal, the Act directs Program Administrators to develop three-year, statewide energy efficiency plans, specifies the components of the energy efficiency plans, establishes a new Energy Efficiency Advisory Council (“Council”), and creates a new stakeholder and regulatory review process for the energy efficiency plans. G.L. c. 25, §§ 21, 22.

Given the Green Communities Act’s significant changes related to the delivery of energy efficiency in the Commonwealth, the Department of Public Utilities (“Department”) determined this to be an appropriate juncture to open the current investigation to update the energy efficiency guidelines (“Guidelines”) that were established in Investigation to Establish Methods and Procedures to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000). Accordingly, on August 22, 2008, the Department issued its vote and Order opening Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines Consistent with An Act Relative to Green

Communities, D.P.U. 08-50 (2008). This investigation is focused on reviewing the existing standards for energy efficiency cost-effectiveness, shareholder performance incentives, Department review of energy efficiency plans, and Department review of energy efficiency annual reports. D.P.U. 08-50, at 3. In furtherance of this investigation, the Department received comments from the following interested persons: the Attorney General of the Commonwealth of Massachusetts (“Attorney General”); the Associated Industries of Massachusetts, the Greater Boston Real Estate Board, the Massachusetts Chapter of the National Association of Industrial and Office Properties, and the Energy Consortium (collectively, “AIM”); the Cape Light Compact (“Cape Light”); Converge; the Guidelines Consensus Group (“Consensus Group”);¹ the Commonwealth of Massachusetts Department of Energy Resources (“DOER”); GasNetworks;² the Low-Income Weatherization and Fuel Assistance Program Network (“Low-Income Network”); Northeast Energy Efficiency Partnership, Inc. (“NEEP”); National Grid; NSTAR Electric Company and NSTAR Gas Company (collectively, “NSTAR”); Wal-Mart Stores East, L.P. (“Wal-Mart”); Western Massachusetts Electric Company (“WMECo”); and the Program to Advance Use of Sustainable Energy at UMass-Boston (“UMass-Boston”). Initial Comments were filed on

¹ The Consensus Group consists of the Conservation Law Foundation; Environment Northeast; Environmental Entrepreneurs; the Massachusetts Climate Action Network; and the Northeast Energy Efficiency Council.

² GasNetworks is an unincorporated association consisting of: Bay State Gas Company; The Berkshire Gas Company; the National Grid gas companies (Boston Gas Company, Colonial Gas Company, and Essex Gas Company); Fitchburg Gas and Electric Light Company d/b/a Unitil; New England Gas Company -- Fall River Service Area; New England Gas Company -- North Attleboro Service Area; and NSTAR Gas Company.

September 22, 2008, technical conferences were conducted at the Department's offices on October 7 and 10, 2008, and reply comments were filed on October 14, 2008.

On March 16, 2009, the Department issued D.P.U. 08-50-A. In that Order, the Department addressed: (1) the criteria for determining energy efficiency program cost-effectiveness; (2) shareholder performance incentive and penalty mechanisms; and (3) Department review of rate and average bill impact analyses.

The Department also convened two working groups, comprised of interested persons, that were charged with proposing: (1) a template -- including content and format -- for energy efficiency plans; and (2) the method by which rate and average bill impacts are to be calculated and a template for their presentation. The working groups filed reports on August 14, 2009, and September 29, 2009, respectively. Additionally, on September 8, 2009, the Department issued, for comment, a proposed model procedural schedule and procedures for the review of the three-year energy efficiency plans to interested persons. Following receipt of comments, the Department held a procedural conference on October 2, 2009, to discuss the proposed procedures and schedule.

In this Order we (1) address the working group reports and the comments on the proposed model procedural schedule and procedures for reviewing the three-year energy efficiency plans, and (2) issue revised Guidelines. At a later date, the Department expects to convene an additional working group whose charge will be to propose a template for energy efficiency annual reports and the procedure for their review.

II. ENERGY EFFICIENCY PLAN TEMPLATES

A. Department Proposal

In D.P.U. 08-50, at 31 the Department identified several elements that it expects to be included in the three-year energy efficiency plans to ensure they contain all information necessary for the Department to determine whether the plans meet the requirements of the Green Communities Act. The Department proposed that each Program Administrator include the following in its individual energy efficiency plan:

- documentation of the Council's review of the applicable statewide plan, including pertinent comments and a statement of any unresolved issues;
- if a Program Administrator's plan deviates from the statewide plan, a description of how it deviates and a justification for the deviations;
- for each year, and for all three years combined, sufficient information to allow the Department to review each energy efficiency program (*i.e.*, descriptions, budgets, savings goals, customer participation rates, benefit-cost ratios, all relevant assumptions underlying the cost-effectiveness evaluation);
- sufficient information to allow the Department to determine whether the Program Administrator has identified and will capture all energy efficiency and demand-reduction resources that are cost-effective;
- sufficient information to allow the Department to make determinations regarding the resulting rate increases as required by G.L. c. 25, § 19(a);
- sufficient information to allow the Department to review performance incentive proposals;
- sufficient information to allow the Department to make determinations regarding the minimization of administrative costs;
- documentation regarding the allocation of energy efficiency program funds to the various customer classes; and

- all relevant background documents (e.g., technical reference manuals, program planning manuals, the workbooks and models used to determine cost-effectiveness, avoided cost studies).

D.P.U. 08-50, at 32-33. In addition, we instructed electric Program Administrators to include estimates of the revenue: (1) to be collected from the system benefits charge (“SBC”); (2) to be collected from the demand resource capacity sold into the forward capacity market (“FCM”) administered by Independent System Operator-New England; (3) to be obtained from the regional greenhouse gas initiative (“RGGI”) auction; and (4) remaining that will need to be collected through the fully reconciling funding mechanism. Id. at 33.

For the cost recovery of electric energy efficiency programs, the Department stated that each electric energy efficiency plan should contain the information necessary to allow the Department to establish a new reconciling charge, to be applied to all distribution customers on a per kilowatt-hour (“kWh”) basis.³ Id. at 33, 36. The Department further stated that gas energy efficiency plans should contain the information required to adjust the local distribution adjustment factor to recover energy efficiency program costs. Id. at 33. The Department proposed that each Program Administrator’s three-year plan:

- describe how the proposed reconciling charge is to be calculated;
- describe how the proposed reconciling charge will be applied to each rate class;

³ For electric Program Administrators, the fully reconciling funding mechanism is known as the energy efficiency reconciling factor. Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, D.P.U. 08-129 (May 29, 2009); NSTAR Electric Company, D.P.U. 08-117 (May 29, 2009); Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 08-126 (May 29, 2009); Western Massachusetts Electric Company, D.P.U. 08-118 (May 29, 2009). Revisions to the energy efficiency surcharge tariffs and factors are addressed in Section V.B.3, below.

- describe how the reconciliation will be conducted;
- include a proposed tariff that describes the reconciling charge; and
- include any other information necessary for the Department to establish the reconciling charge.

Id. at 34.

B. Summary of Comments⁴

The Attorney General, citing time constraints that may present a barrier to the full review of cost-effectiveness of energy efficiency programs, recommends that energy efficiency plans include adequate information and supporting data regarding cost-effectiveness inputs, methods and calculations (Attorney General Initial Comments at 8-9 (September 22, 2008)). Further, the Attorney General, referring to the Green Communities Act's requirement that efficiency programs be delivered cost-effectively while minimizing administrative costs to the fullest extent possible, suggests that Program Administrators be required to provide detailed administrative cost data to ensure that a plan can be reviewed within the 90-day statutory period (id. at 11).

AIM, in support of the Department's proposal, states that it is essential that each energy efficiency plan include a proposed tariff describing the fully reconciling mechanism and how the reconciling charge would be applied to each rate class (AIM Initial Comments at 10 (September 22, 2008)). AIM further asserts that such charges that flow through the

⁴ The following comments were filed in response to D.P.U. 08-50, and predate the formation of the working group. The working group report is discussed in Section II.C, below.

reconciling mechanism must not be hidden and recommends that they be reflected in a separate and recognizable charge on customer bills (id. at 10-11).

Cape Light, Consensus Group, GasNetworks, and NSTAR generally support the Department's proposal for the content of the three-year energy efficiency plans and encourage consistency and standardization among the plans (Cape Light Initial Comments at 16 (September 22, 2008); Consensus Group Initial Comments at 12 (September 22, 2008); GasNetworks Initial Comments at 12 (September 22, 2008); NSTAR Initial Comments at 10 (September 22, 2008)). The Consensus Group adds that the "sufficient information" called for by the Department should include, at a minimum, the following: (1) utility costs; (2) customer costs; (3) total resource costs; (4) electric system benefit; (5) total resource benefit; (6) electric system benefit-cost ratio; (7) total resource benefit-cost ratio; (8) summer demand reduction; (9) annual energy savings; (10) lifetime energy savings; (11) utility summer demand cost; (12) utility energy cost; (13) annual energy cost; (14) average measure life; (15) equivalent lifetime emissions avoided (carbon dioxide, sulfur dioxide, nitrogen oxides) (Consensus Group Initial Comments at 12 (September 22, 2008)). GasNetworks concurs with the Consensus Group's recommendation that greater specificity be given as to what constitutes "sufficient information" and further suggests that it would be useful to develop generic reporting templates that would be common to all Program Administrators (GasNetworks Initial Comments at 13 (September 22, 2008); GasNetworks Reply Comments at 11 (October 14, 2008)). According to GasNetworks, this approach would help ease the review of the three-year energy efficiency plans and foster continued cooperation among Program

Administrators (GasNetworks Initial Comments at 13 (September 22, 2008)). National Grid agrees that most of the information that the Department identified for inclusion in the three-year energy efficiency plans is appropriate (National Grid Initial Comments at 8 (September 22, 2008)). National Grid requests additional guidance on (1) what information is needed in order for Program Administrators to identify and document that all cost-effective energy efficiency has been identified and will be captured, and (2) what information must be provided to allow the Department to affirm that administrative costs have been minimized (id.).

Comverge suggests, that in addition to the plan components identified by the Department, Program Administrators be required to indicate which aspects of their proposed energy efficiency programs will be competitively procured and the process by which such procurement will occur (Comverge Initial Comments at 6 (September 22, 2008)). Specifically, Comverge urges the Department to adopt a rebuttable presumption that all programs should be competitively bid unless the Program Administrator demonstrates that utility implementation is more cost-effective (id.). Addressing Comverge's proposal, GasNetworks states that it does not object to transparency with respect to the procurement process but advises against imposing any requirements to use bidding processes in a way that would divest Program Administrators of their program oversight (GasNetworks Reply Comments at 15 (October 14, 2008)).

C. Working Group

1. Organization and Process

During the October 10, 2008 technical session, the Department stated its intent to convene a working group for the purpose of allowing interested persons and the Department to develop templates, which include content and presentation format, for Program Administrators' energy efficiency plans. D.P.U. 08-50, Hearing Officer Memorandum at 1 (November 19, 2008). Participation in the working group was open to any interested individual or organization. The working group was chaired by DOER and conducted eleven meetings from December 17, 2008, through April 1, 2009, with representatives from the following entities actively participating in the meetings: Attorney General, DOER, the Council, AIM, Environment Northeast, Conservation Law Foundation, The Energy Consortium, the Low-Income Energy Affordability Network ("LEAN"), NSTAR, Bay State Gas Company, The Berkshire Gas Company, WMECo, New England Gas Company, Cape Light, and GasNetworks.⁵ Throughout the process, all interested persons were informed of upcoming meetings, provided with relevant meeting notes and documents, and afforded the opportunity to comment.

2. Report and Comment

On August 14, 2009, the working group filed with the Department its report, consisting of a summary of the working group process and the proposed energy efficiency plan templates

⁵ Department staff also participated in the working group process.

(“Working Group Report”). The Working Group Report was signed by all of the active participants.

The working group states that it developed templates designed to serve the compatible but, not identical, requirements of both the Council and the Department (Working Group Report at 3 (August 14, 2009)). Specifically, the Working Group Report states that the Department is charged with determining, among other things, the cost-effectiveness of the individual Program Administrator’s plans (id.). Complementary to the Department’s responsibilities, the Working Group Report states that the Council’s review encompasses the joint planning activities of all electric Program Administrators and of all gas Program Administrators (id.). To address the needs of the Department and the Council, the Working Group Report states that the working group operated through a consensus approach, meaning that the decisions and documents adopted by the group were acceptable to all members, even if there was not 100 percent agreement about every item (id.).

Upon filing, the Department invited comment on the Working Group Report. Cape Light filed comments in support of the report (Cape Light Comments at 1-2 (August 24, 2009)). No other comments were submitted.

3. Proposed Energy Efficiency Plan Template

As proposed in the template contained in the Working Group Report, an energy efficiency plan would consist of: (1) an executive summary; (2) a comprehensive table of contents; (3) pre-filed testimony; (4) a series of summary and detailed tables that present the

substance of the plan; (5) and a series of appendices that provide the supporting documents for the material presented in the tables (Working Group Report at 5-12 (August 14, 2009)).

The proposed tables present information on the following topic areas: (1) funding sources (summary, funding comparison between each Program Administrator's planned funding and the statewide total, SBC funds, FCM proceeds, RGGI proceeds, other funding if available, prior year carryover, energy efficiency surcharge funds); (2) budgets (summary, budget comparison between each Program Administrator's planned budget and the statewide total, budget comparison between the three-year plan's budget and previous year's budgets); (3) cost-effectiveness (summary, costs summary, costs comparison between each Program Administrator's planned costs and the statewide total, cost comparison between the three-year plan's costs and previous year's costs, benefits summary, benefits comparison between each Program Administrator's planned benefits and the statewide total, benefits comparison between the three-year plan's benefits and previous year's benefits, savings summary, savings comparison between the three-year plan's savings and previous year's savings, avoided cost factors summary, distribution and transmission avoided costs factors comparison between each Program Administrator's planned factors, distribution and transmission avoided costs factors comparison between the three-year plan's factors and previous year's factors); (4) monitoring and evaluation; (5) performance incentive; (6) cost recovery (lost base revenue ("LBR")⁶ and energy efficiency surcharge); (7) low-income customer budget allocation; (8) outsourced

⁶ In Section V., below, the Department addresses the treatment of LBR for electric Program Administrators.

services (summary, outsourced services comparison between each Program Administrator's planned outsourced services and the statewide total, outsourced services comparison between the three-year plan's outsourced services and previous year's outsourced services); and

(9) master summary (id. at 13-86). The supporting appendices would include the:

- (1) assessment of all available cost-effective energy efficiency and demand reduction resources;
- (2) detailed benefit-cost analysis; (3) customer bill impact analysis; (4) avoided cost study;
- (5) technical reference manual (including documentation of sources); (6) transmission and distribution calculations; (7) documents supporting competitive procurement; (8) other supporting documents (to be determined); (9) glossary of defined terms; (10) bibliography; and
- (11) screening tools (id. at 11-12).

D. Analysis and Findings

The Department acknowledges the substantial effort of the working group participants to develop the proposed energy efficiency plan template. We note the wide breadth of interests represented by the working group's participants and the unanimity of support for the proposed template.

We find that the proposed energy efficiency plan templates address, in appropriate scope and depth, the topics set forth in D.P.U. 08-50 and the comments received in response to D.P.U. 08-50. Accordingly, the Department approves the Working Group Report and directs Program Administrators to prepare and file their respective three-year energy efficiency plans in accordance with the August 14, 2009 energy efficiency plan template, and the directives in this Order, including Section V, below.

III. RATE AND AVERAGE BILL IMPACT CALCULATION AND PRESENTATION

A. Introduction

The Green Communities Act provides that electric energy efficiency programs be funded through the 2.5 mills per kWh SBC, amounts generated under the FCM, cap and trade pollution control programs (e.g., RGGI), and other funding approved by the Department after the consideration of, among other things, the effect of any rate increases on residential and commercial consumers. G.L. c. 25, § 19(a). In D.P.U. 08-50-A, the Department set forth the considerations that would guide its review of rate and average bill impacts arising from the funding of electric and gas energy efficiency programs from added distribution charges to ratepayers. D.P.U. 08-50-A at 56-60. First, the Department stated that it is important to properly quantify and present the rate and average bill impacts of the energy efficiency programs by capturing the total effects on costs and sales. Id. at 57. Second, we noted the importance of putting rate and average bill impacts in the proper context, i.e., Program Administrators should fully investigate the tradeoff between increased rates and reduced bills. Id. at 58. Third, we stated that the analysis should consider all the ways in which energy efficiency can affect customers' rates and average bills, whether a customer participates in energy efficiency or not. Id. at 59. Finally, we recognized the importance of considering customer equity issues raised by rate and average bill impacts between program participants and non-participants. Id.

To fulfill the goals stated in D.P.U. 08-50-A and to provide a consistent method by which each Program Administrator would determine and present the rate and average bill

impacts of its proposed energy efficiency plan, the Department convened a working group to develop the appropriate models and templates. On September 29, 2009, the working group submitted its report to the Department.

B. Working Group

1. Organization and Process

As with the working group on the three-year plan templates, participation in the rate and bill impact working group was open to any interested individual or organization, and was chaired by DOER. The group first convened in April 2009, met almost every week through July 23, 2009, and conducted a final meeting on September 15, 2009 (Working Group Report at 4 (September 29, 2009)). Representatives from the following entities actively participated in the meetings: Attorney General, DOER, the Council, AIM, Environment Northeast, Conservation Law Foundation, The Energy Consortium, LEAN, NSTAR, Bay State Gas Company, The Berkshire Gas Company, WMECo, Cape Light, and GasNetworks.⁷

2. Report and Comment

On September 29, 2009, the working group filed its report with the Department. The Working Group Report consists of a summary of the working group's goals and process, a copy of the individual worksheets for the electric and gas rate and average bill impact models, and an electronic copy of the various workbooks. The Working Group Report was signed by all of the active participants.

⁷ Department staff also participated in the working group process.

The working group set out to develop gas and electric rate and bill impact models and templates for the statewide energy efficiency plans to be submitted to the Council and for the individual energy efficiency plans to be submitted to the Department (id. at 6).⁸ The working group operated through a consensus approach with the decisions and documents adopted by the working group being accepted by all members, even if there was not unanimous agreement about every item (id. at 7).

Once the Working Group Report was filed, the Department invited comment from interested persons. The Attorney General filed comments stating that the calculations and templates developed by the working group will be useful in evaluating the three-year energy efficiency plans and also requesting that the Department require the inclusion of a “traditional bill impact analysis” that captures solely the changes in rates due to the implementation of the proposed three-year plans whenever the Program Administrators are proposing changes to tariffed rates, as required by the Department’s regulations at 220 C.M.R. §§ 5.03, 5.06 (Attorney General Comments at 2 (October 1, 2009)). No other comments were submitted.

3. Proposed Bill Impact Models

The models calculate rate and average bill impacts as the difference between (1) the current funding case (i.e., funding derived from the SBC, FCM, RGGI, and any additional funding sources for electric, and from the energy efficiency surcharge included in the local

⁸ In developing the models, the working group used representational data developed for the sole purpose of ensuring the model would function as required. Submissions of rate and bill impacts contained in the individual Program Administrator plans to be submitted to the Department will use data developed by each Program Administrator specifically for those plans (Working Group Report at 6-7 (September 29, 2009)).

distribution adjustment factor for gas) and (2) the incremental funding case (i.e., current funding plus additional funds collected through the energy efficiency surcharge to distribution rates) (Working Group Report at 6 (September 29, 2009)). The models also consider the savings levels associated with the two funding levels by first determining the ratio of the current funding level to the incremental funding level, and then by multiplying the savings resulting from the incremental funding case by this ratio to yield the proportional savings level resulting from the current funding case (id. at EE Program Funding and Benefit Calc (Current) Table).

The models present rate and average bill impacts for the program years 2010 through 2012 (id. at 6). However, the Working Group Report observes that while the models illustrate how customers experience the costs and benefits of the energy efficiency programs year-by-year for the first three years only, the majority of program benefits are experienced over the life of an energy efficiency measure, which, on average, is eleven years (id.). Accordingly, the Working Group Report notes that ratepayers will experience greater benefits than implied by the rate and bill impact analysis presented in the models (id.).

As directed in D.P.U. 08-50-A at 58-60, the models consider three types of customers within a customer class: (1) non-participants; (2) participants; and (3) customers on average. The working group defines each customer type by its monthly kWh consumption. The monthly kWh consumption of a non-participant (in a given customer class) is the base kWh consumption from which a participant's monthly kWh consumption and an average customer's monthly kWh consumption are determined. The working group estimates a participant's

monthly energy consumption as the difference between: (1) the average savings (as a percentage of kWh use) a customer in a given rate class might experience from installing a mix of measures, and (2) the corresponding rate classes' non-participant's monthly kWh consumption (id. at Savings Input Table). The working group estimates an average customer's energy consumption by examining the entire rate class to determine the effect energy efficiency programs have on a typical customer in a rate class. To determine the monthly kWh consumption associated with an average customer, the working group (1) subtracted the cumulative annual energy savings from the annual sales to determine net annual sales, (2) took the ratio of net annual sales to annual sales, and (3) multiplied this ratio by the corresponding rate classes' non-participant's monthly kWh consumption (id. at Bill Impact -- Cur vs. Incr and Rate Adjustments Tables).

C. Analysis and Findings

Here, too, the Department acknowledges the substantial effort of the working group participants to develop the proposed rate and average bill impact models. We note the wide breadth of interests represented by the working group's participants and the unanimity of support for the proposed models. With the one exception discussed below, the working group's models adhere to our directives in D.P.U. 08-50-A at 56-60, and are acceptable for the first three-year energy efficiency plans.

In D.P.U. 08-50-A at 56-60, the Department directed Program Administrators to account for rate and average bill impacts over the long-term (e.g., for the average life of efficiency measures) in order to capture the full effect of energy efficiency savings and costs.

The Department recognizes that this particular requirement posed a challenge for the working group to accurately present informative rate and total bill impacts that effectively account for all expected energy efficiency savings.

As presented in the Working Group Report, rate and total bill impacts account for costs and savings in the years they are incurred. Because energy efficiency plans encompass a three-year period, cost and total bill information is available for the first three years that savings accrue. However, savings from energy efficiency measures installed during the three years continue to accrue over the life of the measure, which is typically longer than three years.⁹ Although the working group has provided an analysis of the long-term savings in supporting tables of the rate and average bill impact models, this analysis is not included in the rate and total bill impact analyses that compile all effects on rates and total bills (accounting for customer charges, transition charges, transmission charges, etc.). Consequently, the working group's recommended approach will understate the benefits of energy efficiency and, thereby, understate the effect that energy efficiency will have on lowering customer bills over the long-term.

Nonetheless, the Department approves the working group's recommended approach to analyzing rate and bill impacts, including the recommended treatment of long-term savings, given the challenges of assessing both the effect on total bills and the effect of long-term

⁹ The working group has determined that the average measure life of electric energy efficiency measures is eleven years, while the majority of gas energy efficiency measures have a life longer than eleven years (Working Group Report at 6 (September 29, 2009)).

benefits. In reviewing the three-year energy efficiency plans, the Department will recognize that the bill and rate impact analysis is limited with regard to long-term benefits. Accordingly, the Department will continue to investigate opportunities to account for the long-term benefits of energy efficiency programs when reviewing rate and bill impacts.

As described in further detail below, while the rate and average bill impact models anticipate the inclusion of LBR, the Department has stated that it will adjudicate issues related to LBR recovery for electric Program Administrators in separate proceedings following the review of the three-year energy efficiency plans.¹⁰ Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, D.P.U. 08-129-B at 3-4 (October 26, 2009); NSTAR Electric Company, D.P.U. 08-117-B at 3-4 (October 26, 2009); Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 08-126-B at 3-4 (October 26, 2009); Western Massachusetts Electric Company, D.P.U. 08-118-B at 3-4 (October 26, 2009). In such Orders, we direct electric Program Administrators that seek LBR recovery to file their petitions, with proposed tariffs, prefiled testimony and supporting documentation, no later than February 1, 2010. D.P.U. 08-129-A at 3-4; D.P.U. 08-117-B at 3-4; D.P.U. 08-126-B at 3-4;

¹⁰ The Department currently allows gas distribution companies to recover LBR. See, e.g., Colonial Gas Company, D.T.E. 97-112, at 33 (1999); Colonial Gas Company, D.T.E. 01-73, at 6, 14 (2002). In D.P.U. 07-50-A at 83-84, the Department affirmed such recovery, stating that gas distribution companies which are currently allowed to recover LBR may continue to do so through the term of their initial three-year energy efficiency plans (*i.e.*, through 2012) consistent with existing LBR recovery methods. The opportunity to recover LBR, however, applies only to gas companies until they begin operating under a decoupling plan. *Id.* at 84 n.25. If a gas Program Administrator anticipates implementing decoupling over the course of its three-year plan, it should include its proposed decoupling factor in its rate and average bill impact models, as appropriate.

D.P.U. 08-118-B at 3-4. Accordingly, the Department directs electric Program Administrators to populate two versions of their respective rate and average bill impact models, in the format presented in the electric rate and average bill impact models: (1) one version that includes information regarding LBR and the effect such an inclusion has on rates and bills; and (2) one version that excludes information regarding LBR and the effect such an exclusion has on rates and bills.

In sum, we find that the proposed rate and average bill impact models address, in appropriate scope and depth, the topics contained in D.P.U. 08-50-A. Accordingly, the Department approves the Working Group Report and directs Program Administrators to prepare and file their respective rate and average bill impact analyses in accordance with the September 29, 2009 rate and average bill impact model, and the directives contained herein.

IV. MODEL PROCEDURAL SCHEDULE AND PROCEDURES FOR THE REVIEW OF THREE-YEAR ENERGY EFFICIENCY PLANS

A. Introduction

In D.P.U. 08-50, the Department acknowledged the need to review each energy efficiency plan within the 90-day period prescribed by the Green Communities Act while according parties' appropriate due process rights. D.P.U. 08-50, at 35. Interested persons addressed procedural issues in their initial and reply comments in D.P.U. 08-50.

Subsequently, interested persons were asked to comment on a proposed model procedural schedule and procedures for the review of the three-year energy efficiency plans.¹¹

¹¹ The proposed procedures include proposals to: (1) conduct joint evidentiary hearings for common issues; (2) conduct a technical session intended to minimize non-technical

D.P.U. 08-50, Hearing Officer Memorandum at 3-4 (September 8, 2009). Following the receipt of these comments, the Department conducted a procedural conference on October 2, 2009, during which all interested persons were invited to discuss the proposed procedures and procedural schedule.

B. Summary of Comments

1. D.P.U. 08-50

The Attorney General, AIM, and the Low-Income Network maintain that a party's right to request an adjudicatory hearing on an energy efficiency plan is a matter of due process (Attorney General Initial Comments at 17 (September 22, 2008), citing G.L. c. 30A, §§ 1, 10; AIM Initial Comments at 10 (September 22, 2008); Low-Income Network Reply Comments at 5 (October 14, 2008)). However, the Attorney General acknowledges that adjudicatory hearings may not be necessary in all cases because the plans will be vetted by the Council and issues may be settled in that context (Attorney General Initial Comments at 17 (September 22, 2008)). The Attorney General suggests that discovery be conducted during the second through fourth weeks after a plan's filing, with evidentiary hearings (if necessary) occurring one week after the close of discovery, followed by comments and reply comments being filed within two weeks from the date of the hearing, reserving six weeks for the Department's review (Attorney General Reply Comments at 9 (October 14, 2008)). Wal-Mart encourages the Department to conduct adjudicatory proceedings for all energy efficiency plans

discovery requests; and (3) require all parties to file pre-hearing statements.
D.P.U. 08-50, Hearing Officer Memorandum at 4-5 (September 8, 2009).

and not just upon a party's request (Wal-Mart Initial Comments at 5 (September 22, 2008)).

Wal-Mart proposes the following procedural schedule: (1) plans filed, day one; (2) notices of filing issued, day three; (3) newspaper publication of notices, day seven; (4) petitions to intervene due, day 21; (5) procedural conferences held, day 22; (6) discovery commences, day 23; (7) intervenor direct testimony due, day 53; (8) rebuttal testimony due, day 58; (9) adjudicatory hearings, day 63; (10) post hearing briefs due, day 73; (11) order issues, day 90 (id. at 5-6)

WMECo asserts that the Legislature intended that it would be sufficient for the Department to review the energy efficiency plans, after being vetted by the Council process, by a comment-type proceeding (WMECo Initial Comments at 19-20 (September 22, 2008)). Specifically, WMECo asserts that the Green Communities Act requires nothing more than an opportunity for interested persons to be heard at a public hearing and that there is no requirement that the Department's investigations include discovery, pre-filed testimony, intervenor testimony, evidentiary hearings, cross-examination, and a briefing period (id. at 19). In support, WMECo argues that it is unreasonable to believe that the Department could complete an adjudicatory review of one energy efficiency plan, let alone all plans, in the statutory 90-day period (id.).

2. Model Procedural Schedule and Procedures for Review of the Three-Year Plans

The Attorney General supports the Department's proposal to conduct joint evidentiary hearings on common issues and proposes that the Program Administrators submit a common filing, including pre-filed testimony, separate from their individual plans that encompass such

issues (Attorney General Initial Comments at 2 (September 22, 2009)). In response, the Program Administrators state that it is their intent to include with each individual energy efficiency plan a copy of the statewide energy efficiency plan, noting that the statewide plan is the core element of each individual energy efficiency plan that is common to all Program Administrators (Program Administrator Joint Reply Comments at 2 (September 29, 2009)). While the Program Administrators represent that each will sponsor at least one witness to support its individual energy efficiency plan, it is yet to be determined whether there would be additional pre-filed testimony that would be common across the Program Administrators addressing elements of the statewide plans (id. at 3).

The Attorney General, recognizing the constraints of the statutory 90-day review period and, citing the complexity of reviewing the electric energy efficiency surcharge tariffs, suggests that the Department separate the review of any proposed tariffs from the review of the three-year energy efficiency plans (Attorney General Initial Comments at 3 (September 22, 2009)). Under the Attorney General's proposal, review of the tariffs would commence after the plan reviews are completed and would be concluded by March 31, 2010 (id.). The Program Administrators support the Attorney General's proposal to review the tariffs separate from the plans and after the review of the plans is complete (Program Administrator Joint Reply Comments at 3 (September 29, 2009); NSTAR Reply Comments at 2 (September 29, 2009)).

Under the Department's proposed model procedural schedule, initial briefs would be due two weeks after the conclusion of evidentiary hearings with reply briefs due one week

later. D.P.U. 08-50, Hearing Officer Memorandum at 9 (September 8, 2009). Both the Attorney General and the Program Administrators request that the Department allow an additional week for filing reply briefs (Attorney General Initial Comments at 3 (September 22, 2009); Program Administrator Joint Initial Comments at 3 (September 22, 2009)). The Attorney General surmises that there may be a significant number of persons, in addition to the Program Administrators, seeking to participate in the investigations, each bringing its own particular issues to bear on the three-year plans (Attorney General Initial Comments at 3 (September 22, 2009)). From this premise, the Attorney General asserts that extending the briefing date will allow all parties the opportunity to present meaningful responses to issues raised on initial briefs (*id.* at 3-4). The Program Administrators state that the extension should allow for higher quality reply briefs, will not prejudice any parties, and should not materially affect the ability of the Department to meet the 90-day deadline imposed by the Green Communities Act (Program Administrator Joint Initial Comments at 3 (September 22, 2009)).

The Attorney General takes issue with two components of the Department's proposed pre-hearing statements and with the timing of their filing. Specifically, the Department proposed that each party's pre-hearing statement would include:

- a statement of the party's basic position in the proceeding; and
- a statement of each question of fact, question of law, and policy question that the party considers at issue, along with the party's position on each issue, and, where applicable, the names of the party's witness(es) who will address each issue.

D.P.U. 08-50, Hearing Officer Memorandum at 5 (September 8, 2009). The Attorney General objects to these items, stating that the proposal that pre-hearing statements be filed

seven calendar days after the filing of the energy efficiency plans may not allow those parties who do not have familiarity with the Council process adequate time to review the plans or have the benefit of access to data and information through discovery and hearings to formulate a position on the energy efficiency plans (Attorney General Initial Comments at 2-3 (September 22, 2009)). Further, the Attorney General, while acknowledging that this information will be helpful to the Department in scoping the proceedings, argues that it unfairly requires intervenors to publish their positions without the benefit of a full record including evidence other than that contained in the energy efficiency plan filings (id.).

LEAN states that the continued deployment of energy efficiency programs -- from the end of the 2009 plans to the start of the three-year plans -- should not be interrupted and that the increased spending on energy efficiency programs targeting the low-income sector should not be delayed (LEAN Initial Comments at 1-2 (September 21, 2009)). In furtherance of its position, LEAN proposes that the Department: (1) issue its final Orders on the three-year plans within 90 days of filing, without delay; (2) authorize as soon as possible the extension of all 2009 low-income energy efficiency programs and contracts until the start of the implementation of the 2010-2012 programs; (3) require that the new contracts for the implementation of the 2010 to 2012 low-income programs, between the Program Administrator and the low-income service providers, be filed with each Program Administrator's three-year energy efficiency plan; and (4) authorize as soon as submitted the new contracts for the implementation of the three-year programs (id. at 2). In response, the Program Administrators state that while they contemplate fully coordinating their efforts with LEAN as required by the

Green Communities Act, they request that the Department not require the filing and review of these contracts as part of the Department's review of each Program Administrator's energy efficiency plan (Program Administrator Joint Reply Comments at 4 (September 29, 2009)).

The Program Administrators submit that review of the low-income service provider contracts: (1) is not necessary for the Department's review of the core elements of the energy efficiency plans; (2) have not previously been established as a core filing requirement of energy efficiency plans; (3) is not consistent with past energy efficiency filings where such contracts typically have not been included in a Program Administrator's filing; and (4) will be unduly burdensome given the limited period of time remaining before the October 30th energy efficiency plan filing date (id.).

C. Analysis and Findings

1. Introduction

The Green Communities Act creates a comprehensive construct for the development and review of energy efficiency plans, and also imposes specific time periods within which the various components of the energy efficiency plans must be developed. Every three years, the Act requires electric Program Administrators to jointly prepare an electric energy efficiency plan and gas Program Administrators to jointly prepare a gas energy efficiency plan; these plans must be submitted for approval and comment by the Council on or before April 30.

G.L. c. 25, §§ 21(b), 21(c). The Council was created by the Green Communities Act and shall, as part of the approval process by the [D]epartment, seek to maximize net economic benefits through energy efficiency and load management resources and to achieve energy, capacity, climate and environmental goals through a sustained and integrated statewide energy efficiency effort. The [C]ouncil shall

review and approve demand resource program plans and budgets, work with program administrators in preparing energy resource assessments, determine the economic, system reliability, climate and air quality benefits of efficiency and load management resources, conduct and recommend relevant research, and recommend long term efficiency and load management goals to maximize economic savings and achieve environmental goals.

G.L. c. 25, § 22(b). The Council, which is chaired by DOER, consists of eleven voting members representing the following: (1) residential customers; (2) the low-income weatherization and fuel assistance program network; (3) the environmental community; (4) businesses, including large commercial and industrial end-users; (5) the manufacturing industry; (6) energy efficiency experts; (7) organized labor; (8) the Department of Environmental Protection (“DEP”); (9) the Attorney General; (10) the Executive Office of Housing and Economic Development (“EOHED”); and (11) DOER. G.L. c. 25, § 22(a). One representative from each of the electric and gas distribution companies and from Cape Light serves as a non-voting, ex-officio member of the Council. Id. The Council held its first meeting on November 20, 2008, and continues to meet and work collaboratively with the Program Administrators as they develop and refine the electric and gas statewide energy efficiency plans.

The Green Communities Act directs the Program Administrators to submit their respective energy efficiency plans, together with the Council’s approval or comments and a statement of any unresolved issues, to the Department every three years on or before October 31. G.L. c. 25, § 21(d)(1). For each of the thirteen plans,¹² the Department must,

¹² The Department expects the following plan filings to be made: (1) Massachusetts Electric Company and Nantucket Electric Company both d/b/a National Grid;

within 90 days after its submission, (1) hold a public hearing to receive comment, and (2) review each plan and issue a decision approving, modifying and approving, or rejecting and requiring its resubmission. G.L. c. 25, §§ 21(d)(1), 21(d)(2). As discussed below, after consideration of the comments received, the Department adopts the model procedural schedule and procedures for review of the three-year plans.

2. Joint Evidentiary Hearings

The Department expects that there will be joint issues common to some or all of the individual energy efficiency plans filed by the Program Administrators. To ensure the most efficient use of the hearing process, the Department will conduct joint evidentiary hearings on such issues. Where necessary, evidentiary hearings to address issues unique to a specific Program Administrator's plan will also be held.

The Attorney General requests that the Program Administrators submit a common filing, separate from their individual energy efficiency plans, that addresses these common issues (Attorney General Initial Comments at 2 (September 22, 2009)). The Program Administrators represent that they intend to include a final copy of the statewide gas or electric energy efficiency plan, as applicable, with their individual plan filings; the applicable statewide energy efficiency plan would serve as the core element of each individual energy efficiency

(2) Fitchburg Gas and Electric Light Company d/b/a Unitil (electric division); (3) Western Massachusetts Electric Company; (4) Cape Light Compact; (5) NSTAR Electric Company; (6) Essex Gas Company, Colonial Gas Company, Boston Gas Company all d/b/a National Grid; (7) New England Gas Company (Fall River); (8) New England Gas Company (North Attleboro); (9) The Berkshire Gas Company; (10) Bay State Gas Company; (11) NSTAR Gas Company; (12) Fitchburg Gas and Electric Light Company d/b/a Unitil (gas division); and (13) Blackstone Gas Company.

plan (Program Administrator Joint Reply Comments at 2 (September 29, 2009)). Each Program Administrator will present at least one witness to sponsor its individual energy efficiency plan. The Program Administrators may also jointly sponsor expert witnesses for certain elements of the statewide energy efficiency plans that are common to all Program Administrators (e.g., a common witness on the most recent avoided cost study). If joint witnesses are used, the Program Administrators would submit common pre-filed testimony outlining the qualifications of any such expert as part of each Program Administrator's energy efficiency plan filing (id. at 3). The Department finds that the Program Administrators' proposed approach regarding the presentation of joint issues is reasonable and appropriate.

3. Separate Investigation of Energy Efficiency Surcharge Tariffs

The Attorney General has requested that, given the potential differences in each of the company's energy efficiency surcharge tariff, which require thorough review, the Department remove from consideration as part of the three-year plan investigation all issues related to the electric Program Administrator's energy efficiency surcharge tariffs and factors (Attorney General Initial Comments at 3 (September 22, 2009)). The Program Administrators support the Attorney General's request, stating that such an approach would put in place the energy efficiency surcharge mechanism, while according ample time for review of the energy efficiency surcharge tariffs that are complementary to the energy efficiency plans, but that also contain additional information distinct from the forward-looking three-year plans (Program Administrator Joint Reply Comments at 2-3 (September 29, 2009)). Instead, they recommend reviewing the energy efficiency surcharge tariffs and factors in separate proceedings after the

three-year plan reviews are completed (Attorney General Initial Comments at 3 (September 22, 2009); Program Administrator Joint Reply Comments at 2-3 (September 29, 2009)). We have addressed this issue in D.P.U. 08-129-A at 3-4, D.P.U. 08-117-B at 3-4, D.P.U. 08-126-B at 3-4, and D.P.U. 08-118-B at 3-4. In those Orders, the Department states that we will adjudicate the energy efficiency surcharge tariffs in separate proceedings following adjudication of the three-year energy efficiency plan filings. The Department directs electric Program Administrators to, no later than February 1, 2010, file energy efficiency surcharge tariffs, for effect July 1, 2010, that: (1) comply with all Department directives contained in the Department's Orders approving the 2009 energy efficiency plans (D.P.U. 08-117; D.P.U. 08-117-B; D.P.U. 08-126; D.P.U. 08-126-B; D.P.U. 08-129; D.P.U. 08-129-B; D.P.U. 08-118; D.P.U. 08-118-B); (2) comply with all applicable directives and guidelines as established in D.P.U. 08-50 (2008); D.P.U. 08-50-A (March 16, 2009), and this Order; and (3) include a proposed LBR recovery method if the Program Administrator is seeking LBR recovery pursuant to Investigation by the Department of Public Utilities on its own Motion into Rate Structures that will Promote Efficient Deployment of Demand Resources, D.P.U. 07-50-A (2008) and D.P.U. 07-50-B (2008).¹³

4. Procedural Schedule

The Program Administrators and the Attorney General each request that the filing of reply briefs be extended to allow ten business days, instead of the proposed five business days,

¹³ Going forward, the Department anticipates review of issues related to the energy efficiency surcharge tariffs and factors to be less complex. Accordingly, the Guidelines reflect the directives contained in D.P.U. 08-50, at 34.

to review initial briefs and formulate responses thereto. As contemplated in the model procedural schedule, evidentiary hearings on the first three-year energy efficiency plans would conclude on December 9, 2009, simultaneous initial briefs would be filed on December 23, 2009, and simultaneous reply briefs would be due on December 30, 2009.

D.P.U. 08-50, Hearing Officer Memorandum at 9 (September 8, 2009). Under the proposal of the Attorney General and the Program Administrators, simultaneous reply briefs would be filed on January 6, 2009 -- three weeks before the expiration of the 90-day review period.¹⁴

We find that this proposal to extend the briefing schedule will materially affect the ability of the Department to meet the 90-day deadline imposed by the Green Communities Act. Accordingly, we decline to extend the due date for the filing of simultaneous reply briefs beyond December 30, 2009. However, we note that the briefing period commences at the conclusion of evidentiary hearings. Should these hearings conclude before December 9th, the Department will consider allowing additional time for the submission of reply briefs, or otherwise adjusting the schedule for briefs and reply briefs.

5. Pre-hearing Statements

As noted above, the Attorney General objects to the content and timing for filing of two items contemplated to be included in the pre-hearing statements. The model procedural

¹⁴ In making this request, the Attorney General retreats from her earlier recommendation that the Department reserve for itself six weeks following the filing of reply briefs (Attorney General Reply Comments at 9 (October 12, 2008)).

schedule contemplates two procedural tracks: a Council Track¹⁵ and a Non-Council Track.¹⁶

Id. at 2-3. Under the proposed model procedural schedule, Council Track parties must file pre-hearing statements seven calendar days after the energy efficiency plans are filed, while pre-hearing statements from Non-Council Track parties are due 13 calendar days after the plans are filed. The Attorney General correctly notes that pre-hearing statements are due seven calendar days following the filing of the energy efficiency plans and observes that while many parties may have familiarity with the plans through the Council process, others may not (Attorney General Initial Comments at 2-3 (September 22, 2009)). However, the Attorney

¹⁵ The distinction is predicated on the fact that Council members and those parties whose interests are represented on the Council have been actively involved in the development of the Program Administrators' energy efficiency plans (i.e., DEP; the Attorney General; EOHED; DOER; the low-income weatherization and fuel assistance program network; the environmental community; businesses, including large commercial and industrial end-users; the manufacturing industry; energy efficiency experts; and organized labor). Accordingly, for the purpose of setting a model procedural schedule, these entities are presumed to be familiar with the content of the plans and the issues that they may likely seek to address during the course of the adjudicatory process. Therefore, Council participants and those parties whose interests are represented on the Council will be expected to begin discovery once the Program Administrators' plans are filed with the Department and will be required to submit any intervenor testimony according to the procedural calendar.

¹⁶ If there are any parties who are permitted to intervene in these proceedings (i.e., are found by the Department to be substantially and specifically affected by these proceedings) but who otherwise did not participate in or whose interests were not represented in the Council process, a reasonable opportunity will be provided for such parties to formulate their respective positions on an energy efficiency plan in the context of the limited period of time afforded the Department by the Green Communities Act to review these plans. However, the Department notes that the Council process is open for non-voting participation to all persons, and the Department expects that those who may be affected by the proceedings will engage in the Council process in order to be familiar with the content of the plans and the issues that they may likely seek to address during the course of the adjudicatory process.

General does not draw the distinction between Council Track and Non-Council Track parties and the divergent periods of time accorded each group to file pre-hearing statements. We find, given the 90-day review period imposed by the Green Communities Act, that the proposed procedural schedule appropriately balances the due process rights of parties and the need to fairly and efficiently review the energy efficiency plans within the statutory period.

The Attorney General contends that while the information required under the proposed pre-hearing statements may be helpful to the Department in scoping a proceeding, it unfairly requires intervenors to develop and publish their respective positions based on the energy efficiency plan filings without the benefit of a full evidentiary record (*id.*). We note that the comprehensive information each Program Administrator is required to file with its energy efficiency plan was developed through a collaborative working group process, described above, and is designed to facilitate the review and evaluation of energy efficiency plans by all parties and the Department. Additionally, as proposed, each party will be afforded the right to timely update its pre-hearing statement, as warranted. D.P.U. 08-50, Hearing Officer Memorandum at 4 (September 8, 2009). In light of the comprehensive nature of each Program Administrator's energy efficiency plan filing, the opportunity to update pre-hearing statements, and the 90-day review period, we find that benefit of prehearing statements to the efficient review of the three-year plans outweighs the concerns raised by the Attorney General.

6. Low-Income Service Provider Contracts

LEAN has requested that each Program Administrator's energy efficiency plan filing also include the filing of low-income service provider contracts, for Department review and

approval (LEAN Initial Comments at 1-2 (September 21, 2009)). In response, the Program Administrators note that such contracts have not typically been a part of energy efficiency plan filings, are not necessary for the Department's review of the core elements of the energy efficiency plans, and will be unduly burdensome to file given the limited time period remaining from the date the request was made to the October 30th filing date for the three-year plans (Program Administrators Joint Reply Comments at 4 (September 29, 2009)). We note that historically the Department has not required the filing of such contracts with energy efficiency plans and that the Green Communities Act does not contemplate their filing or review. In addition, we are cognizant of the burden that requiring the inclusion of these contracts with the energy efficiency plans, at this late date, would cause to the Program Administrators. Accordingly, we will not require the filing of the low-income service provider contracts with the individual Program Administrator's three-year energy efficiency plans. We expect LEAN and the Program Administrators to work out arrangements whereby low-income energy efficiency programs can continue to operate for the one month in 2010 before the Department completes its review of the 2010 to 2012 energy efficiency plans.

V. REVISED ENERGY EFFICIENCY GUIDELINES

A. Introduction

The revised Guidelines, included in this Order, set forth the requirements that will apply to Program Administrators in the filing of their three-year energy efficiency plans and the standards by which the Department will review energy efficiency plans and reports.

Guidelines § 1. The Guidelines supplant our prior Guidelines adopted in D.P.U. 98-100.

B. Three-Year Energy Efficiency Plans

1. Introduction

The Guidelines address the following issues regarding the three-year energy efficiency plans: (1) funding sources; (2) Program Administrator budgets; (3) program cost-effectiveness; (4) evaluation plans; (5) performance incentives; (6) Department review; and (7) mid-term modifications. The Guidelines reflect the requirements of the Green Communities Act, as well as the directives contained in D.P.U. 08-50, D.P.U. 08-50-A, and D.P.U. 08-50-B. The Guidelines also reflect the content of materials developed through the working group process pertaining to funding sources, Program Administrator budgets, and evaluation plans, which we address below.

2. Electric Program Funding Sources

Consistent with the Green Communities Act, the Guidelines identify and define five sources to fund the implementation of electric energy efficiency plans: (1) the SBC; (2) the FCM; (3) cap and trade pollution control programs; (4) other funding sources; and (5) an energy efficiency surcharge. Id. § 3.2.1. The Guidelines set forth a method for allocating these funding sources to the residential, low-income, and commercial and industrial customer sectors. With this method, electric Program Administrators will allocate revenue from the SBC, the FCM, cap and trade pollution control programs, and other funding sources to the residential, low-income, and commercial and industrial customer sectors in proportion to each sector's kWh consumption. The remaining revenue needed to fund each sector's program

budget will be collected through the energy efficiency surcharge that will be calculated

separately for each sector as follows:

- for the low-income sector, the surcharge will be calculated by dividing (1) the energy efficiency surcharge revenue required to fund low-income programs, by (2) the total company-wide (i.e., the sum of all customer sectors) kilowatt-hour or therm sales;
- for the residential sector, the surcharge shall be calculated by adding (1) the energy efficiency surcharge revenue required to fund residential programs divided by total residential kilowatt-hour or therm sales, and (2) the low-income customer energy efficiency surcharge; and
- for the commercial and industrial sector, the surcharge shall be calculated by adding (1) the energy efficiency surcharge revenue required to fund commercial and industrial programs divided by total commercial and industrial kilowatt-hour or therm sales and (2) the low-income customer energy efficiency surcharge.

D.P.U. 08-129 at 44-48; D.P.U. 08-117 at 44-47; D.P.U. 08-126 at 41-47; D.P.U. 08-118 at 42-46; Guidelines §§ 3.2.1.2 through 3.2.1.6. This approach strikes an appropriate balance between allocating funding sources to customer sectors in proportion to how they are collected, and providing important support for low-income customers. See, e.g., D.P.U. 08-129, at 46-48. This approach also ensures that any subsidization of energy efficiency programs targeting low-income customers is shared proportionately by the residential and commercial and industrial customer sectors. Id.

3. Electric Program Administrator Budgets

The Guidelines identify the three components of a Program Administrator's budget as program implementation costs, performance incentives, and recovery of LBR as approved by the Department. Guidelines § 3.3.1. As noted above, the Department has stated that it will adjudicate issues related to electric Program Administrators' proposed LBR recovery in separate proceedings following adjudication of the three-year plans and has directed electric

Program Administrators that seek LBR recovery to file a petition, with supporting information, no later than February 1, 2010. D.P.U. 08-129-A at 3-4; D.P.U. 08-117-B at 3-4; D.P.U. 08-126-B at 3-4; D.P.U. 08-118-B at 3-4. The Department could modify the Guidelines with respect to the LBR component of the budget if needed and appropriate, upon conclusion of these proceedings. For the purposes of the 2010-2012 three-year plans, the Department directs electric Program Administrators to populate two versions of their energy efficiency plan filings, in the format presented in the energy efficiency plan filing template: (1) one version that includes information regarding LBR recovery in the electric Program Administrator's budget; and (2) one version that excludes information regarding LBR recovery from the electric Program Administrator's budget.

Consistent with the energy efficiency plan template Working Group Report, the Guidelines divide program implementation costs into five categories: (1) program planning and administration, (2) marketing and advertising; (3) participant incentives; (4) sales, technical assistance, and trainings; and (5) evaluation and market research. The Guidelines also require Program Administrators to provide a detailed description if one of these budget categories, as expressed as a percentage of its total budget, differs by more than 20 percent from the statewide percentage of total budget for that budget category. Guidelines §§ 3.3.3 and 3.3.5. In order to make this a meaningful comparison, it is important for Program Administrators to define the types of costs to be included in each budget category in a consistent manner. To the extent that such consistency is not reflected in the upcoming three-year plan filings, the Department will work with the Program Administrators and other

interested parties as needed to establish the types of costs to be included in each budget category in a consistent manner at a later date.

4. Evaluation Plans

The Department will require all Program Administrators to include, as part of their three-year energy efficiency plans, evaluation plans which identify the activities that the Program Administrator will undertake during the course of the three-year energy efficiency plan to ensure that the energy efficiency programs are appropriately monitored and evaluated, and that program costs and savings are appropriately measured and verified. Specifically, each Program Administrator must prepare an evaluation plan that describes how it will monitor and evaluate the energy efficiency programs, including a description of how the evaluation plan is consistent with any statewide evaluation plan and how the Program Administrator will coordinate its efforts with other Program Administrators in Massachusetts. Id. § 3.5.2. Such evaluation plans must include information regarding each evaluation study to be undertaken during the course of the three-year energy efficiency plan, including: (1) the name of the study; (2) whether the Program Administrator plans to undertake the study by itself or with other Program Administrators; (3) the name of entity/entities conducting the study; (4) if a third party is conducting the study, the method by which the Program Administrator(s) selected the third party; (5) the energy efficiency program(s) (and energy efficiency measures, as appropriate) that are the subject of, or will be affected by, the study; (6) the type of study (e.g., impact or process evaluation); (7) the description of evaluation method(s) (e.g., site-specific measurement analysis, billing analysis, survey-based evaluation); (8) how

the results of the study will be used to revise the applicable energy efficiency program; (9) the projected start and completion dates; and (10) the role of the study in the Program Administrator's overall evaluation plan. Id. § 3.5.3

The Guidelines reflect the specific directives made above related to evaluation plans. See id. § 3.5. The Guidelines do not address how Program Administrators will present, nor how the Department will review, the results of the evaluation activities. Such results will be presented in the Program Administrators' annual energy efficiency reports, which are addressed in Section V.C., below.

The Department is cognizant of the limited amount of time between the issuance of this Order and the filing deadline for the 2010-2012 energy efficiency plans. Program Administrators may not have sufficient time to prepare all the evaluation plan information described above for their first energy efficiency plans. The Department encourages Program Administrators to include in their 2010-2012 efficiency plans as much information as possible regarding the evaluation plans, consistent with the directives above. To the extent that the initial energy efficiency plan filing is lacking any information on evaluation plans, the Program Administrator will be permitted to supplement this evaluation plan filing during the discovery phase of the three-year plan investigations.

C. Annual Energy Efficiency Reports

Pursuant to the Green Communities Act, an energy efficiency program must be screened for cost-effectiveness before its deployment and, once deployed, the Department and the Council must periodically monitor it for continued cost-effectiveness. G.L. c. 25,

§ 21(b)(3). To fulfill this oversight mandate, the Department has proposed that Program Administrators continue to file with the Department their respective annual reports on energy efficiency activities. D.P.U. 08-50 at 37-39.

The Guidelines do not, at this time, include requirements for filing annual energy efficiency reports with the Department. As noted above, we intend to convene a working group that will address these issues and propose a template for the contents of the annual energy efficiency reports and a procedure for their review. The Department will modify the Guidelines as appropriate upon receipt of the working group's report(s) on the annual energy efficiency reports.

VII. GUIDELINES

Guidelines for the Methods and Procedures for the Evaluation and Approval of Energy Efficiency Plans and Energy Efficiency Reports

Sections

1. Purpose and Scope
2. Definitions
3. Energy Efficiency Plans
 - 3.1 Purpose
 - 3.2 Funding Sources
 - 3.3 Program Administrator Budgets
 - 3.4 Energy Efficiency Program Cost-Effectiveness
 - 3.5 Evaluation Plans
 - 3.6 Performance Incentives
 - 3.7 Department Review
 - 3.8 Mid-Term Revisions
4. Energy Efficiency Reports
5. Exceptions

Section 1: Purpose and Scope

- (1) Purpose. These Guidelines set forth (a) the filing requirements applicable to Program Administrators, and (b) the standards by which the Department will review Energy Efficiency Plans and Energy Efficiency Reports.
- (2) Scope. These Guidelines apply to all Program Administrators.

Section 2: Definitions

- (1) “Cap and Trade Pollution Control Program” refers to any state, regional or national program as defined by G.L. c. 21A §22(a), including, but not limited to, the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative Memorandum of Understanding, as defined in G.L. c. 21A §22(a).
- (2) “Council” refers to the Energy Efficiency Advisory Council established pursuant to G.L. c. 25 § 22.
- (3) “Department” refers to the Massachusetts Department of Public Utilities.

- (4) “Distribution Company” refers to a gas company or an electric company as defined in G.L. c. 164 § 1.
- (5) “DRIPE” refers to demand-reduction-induced price effect, which is the reduction in wholesale market electric energy and capacity prices that occur as a result of a reduction in energy or capacity demand.
- (6) “Energy Efficiency Annual Report” refers to an annual report filed by a Program Administrator regarding the implementation of the prior year’s Energy Efficiency Plan.
- (7) “Energy Efficiency Plan” refers to a three-year portfolio of Energy Efficiency Programs developed by a Program Administrator, in consultation with the Council, and filed with the Department pursuant to G.L. c. 25 §§ 19 through 21.
- (8) “Energy Efficiency Program” refers to a program implemented by a Program Administrator that is intended to reduce or minimize the amount of energy required to produce a desired or given output, including, but not limited to, programs described in G.L. c. 25 § 21(b)(2).
- (9) “Energy Efficiency Surcharge” refers to a surcharge included in (a) an electric Distribution Company’s distribution rates, pursuant to G.L. c. 25, § 19(a), that collects additional money for approved Energy Efficiency Programs when the cost of implementing those programs exceeds the funding provided through other funding sources, or (b) a gas Distribution Company’s distribution rates, pursuant to G.L. c. 25, § 19(b), that collects money for approved Energy Efficiency Programs.
- (10) “Forward Capacity Market” refers to the wholesale electric capacity market administered by the Independent System Operator-New England.
- (11) “Hard-to-Measure Energy Efficiency Program” refers to a program that might not have immediate energy savings or whose energy savings may be difficult to quantify including, but not limited to: (a) programs for research, development and commercialization of efficiency products; (b) programs to support new appliance and product efficiency standards; (c) programs to integrate efficiency products with building energy codes or high performance sustainable buildings that exceed code; (d) programs for public education regarding energy efficiency; (e) pilot programs; and (f) new types of programs (e.g., combined heat and power projects and demand response programs).
- (12) “Low-Income Customer” refers to a customer of a Distribution Company who is eligible to participate in a Program Administrator’s low-income Energy Efficiency Programs.

(13) “Municipal Aggregator” refers to a municipality or group of municipalities that aggregates the electric load of interested electric consumers within its boundaries pursuant to G.L. c. 164, § 134.

(14) “Program Administrator” refers to an entity that administers Energy Efficiency Programs.

(15) “Program Participant” refers to a customer of a Distribution Company who receives an incentive to participate in, or is encouraged to implement energy efficiency measures by, an Energy Efficiency Program.

(16) “System Benefits Charge” refers to the \$0.0025 per kilowatt-hour charge established by G.L. c. 25, § 19(a) to partially fund electric Energy Efficiency Programs.

Section 3: Energy Efficiency Plans

3.1 Purpose. This section of the Guidelines sets forth the information that a Program Administrator shall include in its Energy Efficiency Plan regarding:

- Funding Sources (§ 3.2);
- Program Administrator Budgets (§ 3.3);
- Energy Efficiency Program Cost-Effectiveness (§ 3.4);
- Evaluation Studies (§ 3.5); and
- Performance Incentives (§ 3.6).

This section also sets forth the procedures and standards by which the Department will review an Energy Efficiency Plan (§ 3.7).

3.2 Funding Sources

3.2.1 Electric Funding Sources. An electric Program Administrator shall use the following sources to fund the implementation of its Energy Efficiency Plan:

- System Benefits Charge;
- Revenues from the Forward Capacity Market;
- Revenues from Cap and Trade Pollution Control Programs;
- Other Funding; and
- Energy Efficiency Surcharge.

3.2.1.1 An electric Program Administrator shall (a) present information regarding funding sources consistent with the format approved in Energy Efficiency Guidelines,

D.P.U. 08-50-B, as may be revised from time to time, and (b) provide supporting documentation for the calculation of the revenue from each funding source.

3.2.1.2 An electric Program Administrator shall allocate revenue from the System Benefits Charge to its residential, low-income, and commercial and industrial customer sectors in proportion to the sector's kilowatt-hour consumption.

3.2.1.3 An electric Program Administrator shall allocate revenue from the Forward Capacity Market to its residential, low-income, and commercial and industrial customer sectors in proportion to the sector's kilowatt-hour consumption.

3.2.1.4 An electric Program Administrator shall allocate revenue from Cap and Trade Pollution Control Programs to its residential, low-income, and commercial and industrial customer sectors in proportion to the sector's kilowatt-hour consumption.

3.2.1.5 Other funding revenue refers to revenue received by an electric Program Administrator in excess of revenue from the funding sources listed in §§ 3.2.1.2 through 3.2.1.4 for the purpose of funding its Energy Efficiency Programs. An electric Program Administrator shall allocate other funding revenue to its residential, low-income, and commercial and industrial customer sectors in the proportion to the sector's kilowatt-hour consumption. An electric Program Administrator's Energy Efficiency Plan shall include a detailed description of all other funding revenue sources that it considered, including, but not limited to: (a) the different other funding sources identified by the electric Program Administrator; (b) whether or not the electric Program Administrator attempted to access those other funding revenue sources; (c) if the electric Program Administrator chose not to access those other funding revenues, the reason behind that decision; (d) a statement of the amount of the other funding revenues available; (e) whether the other funding revenue source is a recurring source; (f) any conditions placed on the use of the other funding revenue sources; and (g) whether receiving other funding revenue allowed the electric Program Administrator to seek less money from ratepayers.

3.2.1.6 An electric Program Administrator shall calculate the revenue required from the Energy Efficiency Surcharge for each customer sector as the difference between each sector's (a) program administration budget, defined in § 3.3, and (b) revenue allocation made pursuant to §§ 3.2.1.2 through 3.2.1.5. An electric Program Administrator shall calculate a separate Energy Efficiency Surcharge for its low-income, residential, and commercial and industrial customer sectors in the following manner:

- (a) The Low-Income Customer Energy Efficiency Surcharge shall be calculated by dividing
 - (i) the Energy Efficiency Surcharge revenue required to fund low-income programs, by
 - (ii) the total company-wide (i.e., the sum of all customer sectors) kilowatt-hour sales;

- (b) The residential customer Energy Efficiency Surcharge shall be calculated by adding (i) the Energy Efficiency Surcharge revenue required to fund residential programs divided by total residential kilowatt-hour sales, and (ii) the Low-Income Customer Energy Efficiency Surcharge; and
- (c) The commercial and industrial customer Energy Efficiency Surcharge shall be calculated by adding (i) the Energy Efficiency Surcharge revenue required to fund commercial and industrial programs divided by total commercial and industrial kilowatt-hour sales and (ii) the Low-Income Customer Energy Efficiency Surcharge.

3.2.1.6.1 If an electric Program Administrator's Energy Efficiency Plan funding from the System Benefits Charge, Forward Capacity Market, Cap and Trade Pollution Control Programs, and other sources in a given year exceeds its required Energy Efficiency Plan budget in the same year, the electric Program Administrator: (a) shall not recover an Energy Efficiency Surcharge in that year; and (b) shall carry over any excess funding to its Energy Efficiency Plan budget for the subsequent year.

3.2.1.6.2 The Department will review and approve an Energy Efficiency Surcharge after considering: (a) the effect of any rate and average bill impact on customers; (b) the availability of other private or public funds, utility administered or otherwise, that may be available; and (c) whether past Energy Efficiency Programs have lowered the cost of meeting customers' electricity or gas needs.

3.2.1.6.3 Rate and Average Bill Impacts. An electric Program Administrator's Energy Efficiency Plan shall present information regarding rate and average bill impacts consistent with Energy Efficiency Guidelines, D.P.U. 08-50-A and the format approved in Energy Efficiency Guidelines, D.P.U. 08-50-B, as may be revised from time to time.

3.2.1.7 If any one of an electric Program Administrator's proposed funding sources, expressed as a percentage of total funding, differs by more than 20 percent from the statewide percentage of total funding for that funding source, the electric Program Administrator shall provide a detailed description and supporting documentation regarding the difference. If this information is not available at the time of the filing of the Energy Efficiency Plan, the electric Program Administrator shall state when such information will be available for filing.

3.2.2 Gas Funding Sources. A gas Program Administrator shall fund the implementation of its Energy Efficiency Plan through its Local Distribution Adjustment Clause tariff.

3.2.2.1 Other funding revenue refers to revenue received by a gas Program Administrator in excess of revenue from the funding source listed in § 3.2.2 for the purpose of funding its Energy Efficiency Programs. A gas Program Administrator shall allocate other funding revenue to its residential, low-income, and commercial and industrial customer sectors

in the proportion to the sector's therm consumption. A gas Program Administrator's Energy Efficiency Plan shall include a detailed description of all other funding revenue sources that it considered, including, but not limited to: (a) the different other funding sources identified by the gas Program Administrator; (b) whether or not the gas Program Administrator attempted to access those other funding revenue sources; (c) if the gas Program Administrator chose not to access those other funding revenues, the reason behind that decision; (d) a statement of the amount of the other funding revenues available; (e) whether the other funding revenue source is a recurring source; (f) any conditions placed on the use of the other funding revenue sources; and (g) whether receiving other funding revenue allowed the gas Program Administrator to seek less money from ratepayers.

3.2.2.2 Rate and Average Bill Impacts. A gas Program Administrator's Energy Efficiency Plan shall present information regarding rate and average bill impacts consistent with Energy Efficiency Guidelines, D.P.U. 08-50-A and the format approved in Energy Efficiency Guidelines, D.P.U. 08-50-B, as may be revised from time to time.

3.2.2.3 If any one of a gas Program Administrator's proposed funding sources, expressed as a percentage of total funding, differs by more than 20 percent from the statewide percentage of total funding for that funding source, the gas Program Administrator shall provide a detailed description and supporting documentation regarding the difference. If this information is not available at the time of the filing of the Energy Efficiency Plan, the gas Program Administrator shall state when such information will be available for filing.

3.3 Program Administrator Budgets

3.3.1 A Program Administrator's budget shall be comprised of its Energy Efficiency Program implementation costs, its performance incentive, and recovery of lost base revenues as approved by the Department.

3.3.2 A Program Administrator shall present: (a) information regarding its budget sources consistent with the format approved in Energy Efficiency Guidelines, D.P.U. 08-50-B, as may be revised from time to time; and (b) supporting documentation for the budget sources.

3.3.3 Program implementation costs shall include all costs incurred by a Program Administrator to implement its Energy Efficiency Programs, including, but not limited to: (a) program planning and administration; (b) marketing and advertising; (c) Program Participant incentive; (d) sales, technical assistance and training; and (e) evaluation and market research.

3.3.4 Performance incentives are funds earned by a Program Administrator based on its performance in implementing its Energy Efficiency Programs and shall be determined pursuant to § 3.6, below.

3.3.5 If any one of a Program Administrator's proposed budget categories, as expressed as a percentage of total budget, differs by more than 20 percent from the statewide percentage of total budget for that budget category, the Program Administrator shall provide a detailed description and supporting documentation regarding the difference. If this information is not available at the time of the filing of the Energy Efficiency Plan, the Program Administrator shall state when such information will be available for filing.

3.3.6 **Minimization of Administrative Costs.** A Program Administrator, in delivering its Energy Efficiency Programs, shall minimize administrative costs to the fullest extent practicable and include in its Energy Efficiency Plan a detailed description and supporting documentation of the steps taken to minimize administrative costs.

3.3.7 **Competitive Procurement.** A Program Administrator, in delivering its Energy Efficiency Programs, shall use competitive procurement processes to the fullest extent possible and present information regarding competitive procurement consistent with the format approved in Energy Efficiency Guidelines, D.P.U. 08-50-B, as may be revised from time to time. If any one of a Program Administrator's competitive procurement categories, as expressed as a percentage of a total budget category, differs by more than 20 percent from the statewide percentage of total competitive procurement for that budget category, the Program Administrator shall provide a detailed description and supporting documentation regarding the difference. If this information is not available at the time of the filing of the Energy Efficiency Plan, the Program Administrator shall state when such information will be available for filing.

3.4 Energy Efficiency Program Cost-Effectiveness

3.4.1 **Purpose.** This section of the Guidelines establishes the method by which the Department will review and determine the cost-effectiveness of an Energy Efficiency Program.

3.4.2 An Energy Efficiency Plan shall include and present information regarding Energy Efficiency Program cost-effectiveness consistent with the format approved by the Department in Energy Efficiency Guidelines, D.P.U. 08-50-B, as may be revised from time to time.

3.4.3 The Department will rely on the Total Resource Cost Test to determine cost-effectiveness. The Total Resource Cost Test includes all benefits and costs associated with the energy system, as well as all benefits and costs associated with Program Participants.

3.4.3.1 A Program Administrator shall perform cost-effectiveness screening on an Energy Efficiency Program-specific basis, except for Hard-To-Measure Energy Efficiency Programs discussed in § 3.4.3.2. An Energy Efficiency Program shall be deemed cost-effective if the cumulative present value of its benefits, defined in § 3.4.4, below, are equal to or greater than the cumulative present value of its costs, defined in § 3.4.5, below.

3.4.3.2 Hard-to-Measure Energy Efficiency Programs. A Program Administrator shall allocate the benefits and costs of Hard-to-Measure Energy Efficiency Programs to the program's customer sector. If such inclusion causes the sector's benefit-cost ratio to fall below one, then that Hard-To-Measure Energy Efficiency Program shall be deemed to be not cost-effective. An Energy Efficiency Plan shall include the following information regarding a Hard-to-Measure Energy Efficiency Program: (a) the best estimates available regarding the Hard-To-Measure Energy Efficiency Program's savings, costs and benefits; (b) detailed descriptions of the purpose, scope and design of the Hard-To-Measure Energy Efficiency Program; (c) supporting documentation for why the program is qualified to be treated as Hard-to-Measure Energy Efficiency Program; and (d) any recommendations made by the Council regarding the Hard-To-Measure Energy Efficiency Program.

3.4.3.3 An Energy Efficiency Plan shall include sufficient information to allow a determination of the cost-effectiveness on an energy efficiency measure-specific basis.

3.4.4 Energy Efficiency Program Benefits. An electric Program Administrator shall calculate Energy Efficiency Program benefits in accordance with § 3.4.4.1, below. A gas Program Administrator shall calculate Energy Efficiency Program benefits in accordance with § 3.4.4.2, below.

3.4.4.1 Electric Energy Efficiency Program Benefits. An electric Energy Efficiency Program's benefits shall be comprised of electric benefits and non-electric benefits.

(a) Electric benefits shall be comprised of the following:

- (i) Avoided capacity benefits, consisting of avoided: (A) summer-period; and (B) winter-period capacity benefits. For each time period, the avoided capacity benefit shall be calculated as the product of: (A) the capacity savings in that period; and (B) the period's avoided capacity cost factor. The avoided capacity cost factors shall be uniform for all electric Program Administrators and shall be updated every two years or as necessitated by changing market conditions, as approved by the Department.
- (ii) Avoided energy benefits, consisting of avoided: (A) summer-period peak; (B) summer-period off-peak; (C) winter-period peak; and (D) winter-period off-peak energy benefits. For each time period, the avoided energy benefit shall be calculated as the product of: (A) the energy savings in that time period; and (B) the period's avoided energy cost factor. The avoided energy cost factors shall be uniform for all electric Program Administrators and shall be updated every two years or as necessitated by changing market conditions, as approved by the Department.

- (iii) Avoided transmission benefits, calculated as the product of: (A) an Energy Efficiency Program's capacity savings; and (B) an avoided transmission cost factor. The avoided transmission cost factor shall be based on the transmission costs specific to each electric Distribution Company. An Energy Efficiency Plan shall include a detailed description and supporting documentation of the method used to calculate the avoided transmission cost factor.
 - (iv) Avoided distribution benefits, calculated as the product of: (A) an Energy Efficiency Program's capacity savings; and (B) an avoided distribution cost factor. The avoided distribution cost factor shall be based on the distribution costs specific to each electric Distribution Company. An Energy Efficiency Plan shall include a full description of the method used to calculate the avoided distribution cost factor.
 - (v) The avoided capacity, energy, transmission and distribution cost factors shall include related environmental compliance costs that are reasonably projected to be incurred in the future because of state or federal laws, rules and/or regulatory requirements that are currently in effect, or are projected to take effect in the future.
 - (vi) Capacity DRIPE benefits, calculated as the product of: (A) an Energy Efficiency Program's capacity savings; and (B) a capacity DRIPE factor. The capacity DRIPE factor shall be uniform for all electric Program Administrators, shall include only those capacity DRIPE benefits that accrue to customers in Massachusetts, and shall be updated every two years or as necessitated by changing market conditions, as approved by the Department.
 - (vii) Energy DRIPE benefits, calculated as the product of: (A) an Energy Efficiency Program's energy savings; and (B) an energy DRIPE factor. The energy DRIPE factor shall be uniform for all electric Program Administrators, shall include only those energy DRIPE benefits that accrue to customers in Massachusetts, and shall be updated every two years or as necessitated by changing market conditions, as approved by the Department.
 - (viii) Reductions in all costs to the electric Distribution Company associated with reduced customer arrearages and reduced service terminations and reconnections.
- (b) Non-electric benefits shall account for those benefits that are specific to Program Participants and shall be comprised of the following:
- (i) Resource benefits, which account for the avoided costs of natural gas, oil, propane, wood, kerosene, water, and other resources for which consumption is reduced as a result of the implementation of an Energy Efficiency Program. Resource benefits shall be calculated as the product of: (A) the reduction in consumption of the identified resource and (B) the avoided cost factor for each resource.

- (ii) Non-resource benefits, which include, but are not limited to: (A) reduced costs for operation and maintenance associated with efficient equipment or practices; (B) the value of longer equipment replacement cycles and/or productivity improvements associated with efficient equipment; (C) reduced environmental and safety costs, such as those for changes in a waste stream or disposal of lamp ballasts or ozone-depleting chemicals; and (D) all benefits associated with providing energy efficiency services to Low-Income Customers.
- (c) For each identified non-electric benefit, an Energy Efficiency Plan shall: (i) identify the non-electric benefit; (ii) provide a complete description of the calculation used to determine the benefit amount; and (iii) provide all supporting documentation.

3.4.4.2 Gas Energy Efficiency Program Benefits. A gas Energy Efficiency Program's benefits shall be comprised of gas benefits and non-gas benefits.

(a) Gas benefits shall be comprised of the following:

- (i) Avoided gas supply benefits, calculated as the product of: (A) an Energy Efficiency Program's gas commodity savings; and (B) an avoided gas supply cost factor, as appropriate. The avoided gas supply cost factor shall be based on the gas supply costs specific to each gas Distribution Company.
- (ii) Avoided distribution benefits, calculated as the product of: (A) an Energy Efficiency Program's gas commodity savings; and (B) an avoided distribution cost factor. The avoided distribution cost factor shall be based on the distribution costs specific to each gas Distribution Company.
- (iii) The avoided gas and distribution cost factors shall include distribution-related environmental compliance costs that are reasonably projected to be incurred in the future because of state or federal laws, rules and/or regulatory requirements that are currently in effect, or are projected to take effect in the future.
- (iv) Reductions in all costs to the gas Distribution Company associated with reduced customer arrearages and reduced service terminations and reconnections.

(b) Non-gas benefits shall account for those benefits that are specific to Program Participants, and shall be comprised of the following:

- (i) Resource benefits, which account for the avoided costs of electric, oil, water, sewage disposal, and other resources for which consumption is reduced as a result of the implementation of an Energy Efficiency Program. Resource benefits shall be calculated as the product of: (A) the reduction in consumption of the identified resource; and (B) the avoided cost factor for each resource.

(ii) Non-resource benefits, which include, but are not limited to: (A) reduced costs for operation and maintenance associated with efficient equipment or practices; (B) the value of longer equipment replacement cycles and/or productivity improvements associated with efficient equipment; (C) reduced environmental and safety costs, such as those for changes in a waste stream or disposal of lamp ballasts or ozone-depleting chemicals; and (D) all benefits associated with providing energy efficiency services to Low-Income Customers.

(c) For each identified non-gas benefit, an Energy Efficiency Plan shall: (i) identify the non-electric benefit; (ii) provide a complete description of the calculation used to determine the benefit amount; and (iii) provide all supporting documentation.

3.4.4.3 For each Energy Efficiency Program, if any one of a Program Administrator's proposed benefit categories, as expressed as a percentage of total benefits, differs by more than 20 percent from the statewide percentage of total benefits for that benefit category, the Program Administrator shall provide a detailed description and supporting documentation regarding the difference. If this information is not available at the time of the filing of the Energy Efficiency Plan, the Program Administrator shall state when such information will be available for filing.

3.4.5 Energy Efficiency Program Costs. A Program Administrator shall categorize program costs as program implementation costs, performance incentives, or Program Participant costs.

3.4.5.1 Program implementation costs shall include costs as described in § 3.3.3, above.

3.4.5.2 Performance incentives shall include costs as described in § 3.3.4, above.

3.4.5.3 Program Participant costs shall include all expenses incurred by a Program Participant as a result of its participation in an Energy Efficiency Program, including, but not limited to: (a) the net cost of energy efficient equipment; (b) the cost to plan for and install energy efficient equipment; and (c) the cost of energy efficiency services, such as energy audits or inspections for proper equipment functioning.

3.4.6 Discount Rate. Benefits and costs that are projected to occur over the term of each Energy Efficiency Program shall be stated in present value terms, using a discount rate that is equal to a twelve-month average of the historic yields from the ten-year United States Treasury note, using the previous calendar year to determine the twelve-month average.

3.4.7 All Available Energy Efficiency. An Energy Efficiency Plan shall include an assessment of all available energy efficiency and demand reduction resources that are cost-effective. A Program Administrator shall seek to implement all available cost-effective energy efficiency and demand reduction resources that are cost-effective. If an Energy

Efficiency Plan does not achieve all available cost-effective energy efficiency, the Program Administrator shall provide a detailed explanation why it is not able to achieve this goal.

3.5 Evaluation Plans

3.5.1 Purpose. This section of the Guidelines sets forth the information that a Program Administrator shall include in its Energy Efficiency Plan regarding its plans to evaluate its Energy Efficiency Programs over the term of the Energy Efficiency Plan.

3.5.2 Each three-year Energy Efficiency Plan shall include an evaluation plan describing how the Program Administrator will evaluate the Energy Efficiency Programs during the course of its Energy Efficiency Plan. The evaluation plan should include at least the following information: (a) how the evaluation plan is consistent with any statewide evaluation plans; (b) how the activities of the evaluation plan will be coordinated with the activities of other Program Administrators; (c) how the electric and gas evaluation efforts have been integrated; and (d) how the Program Administrator incorporated directives or resolutions from the Council in forming its evaluation plans. A Program Administrator should fully document and justify all areas where its evaluation plan deviates from either (a) any statewide evaluation plan, or (b) any directives or resolutions from the Council. If this information is not available at the time of the filing of the Energy Efficiency Plan, the Program Administrator shall state when such information will be available for filing.

3.5.3 A Program Administrator shall provide the following information for each evaluation study that it plans to participate in over the term of the Energy Efficiency Programs:

- (a) name of study;
- (b) whether the Program Administrator plans to undertake the study by itself or with other Program Administrators;
- (c) name of entity conducting the study;
- (d) if a third party is conducting the study, the method by which the Program Administrator selected the third party;
- (e) Energy Efficiency Program(s) (and energy efficiency measures, as appropriate) that are the subject of, or will be affected by, the study;
- (f) type of study (e.g., impact or process evaluation), and the reason the Program Administrator chose to participate in the study;
- (g) description of evaluation method(s) (e.g., site-specific measurement analysis, billing analysis, survey-based evaluation);
- (h) how the results of the study will be used to revise the applicable Energy Efficiency Program;
- (i) projected start and completion dates; and
- (j) the role of the study in the Program Administrator's overall evaluation plan.

3.6 Performance Incentives

3.6.1 Purpose. This section of the Guidelines sets forth the principles by which the Department will review a performance incentive mechanism.

3.6.2 Guiding Principles. A performance incentive mechanism shall be:

- designed to encourage Distribution Companies to pursue all available cost-effective energy efficiency;
- designed in such a way as to encourage Energy Efficiency Program designs that will best achieve the Commonwealth's energy goals, particularly with regard to the goals stated in Chapter 169 or the Acts of 2008;
- based on clearly-defined goals and activities that can be sufficiently monitored, quantified and verified after the fact;
- available only for activities where the Distribution Company plays a distinct and clear role in bringing about the desired outcome;
- as consistent as possible across all electric and gas Distribution Companies, with clear justification for any deviations across Distribution Companies; and
- created in such a way to avoid any perverse incentives.

3.6.3 The amount of funds available for a performance incentive mechanism should be kept as low as possible, in consideration of the other principles contained herein, in order to minimize the costs to electric and gas customers.

3.6.4 Any proposed modifications to a previously approved performance incentive mechanism shall include sufficient justification demonstrating how the proposed modifications will improve upon the performance incentive mechanism with consideration for each of the design principles listed above.

3.6.5 Penalty Provision. In reviewing a Distribution Company's Energy Efficiency Annual Report, the Department will consider whether the Distribution Company has reasonably complied with its Three-Year Energy Efficiency Plan and whether it is appropriate to impose a penalty pursuant to G.L. c. 25, § 21(e).

3.7 Department Review of Energy Efficiency Plans

3.7.1 The Department will review an Energy Efficiency Plan consistent with the procedures and timeline set forth below, subject to modification by the Department, as necessary, in a particular proceeding.

3.7.2 Procedures

(a) Procedural Tracks:

(i) Council Track Participants

A Council participant and a party whose interests are represented on the Council, pursuant to G.L. c. 25, § 22(a), is presumed to be familiar with the content of an Energy Efficiency Plan and the issues that it may likely seek to address during the course of the adjudicatory process and will be treated as putative intervenors in such proceeding until the Department has issued rulings on intervention.

(ii) Non-Council Track Participants/Parties

If there are any persons who petition to intervene in a proceeding and who are found, pursuant to G.L. c. 30A, § 10, by the Department to be substantially and specifically affected by these proceedings but who otherwise did not participate in or whose interests were not represented in the Council process, a reasonable opportunity will be provided for such parties to formulate their respective positions on an Energy Efficiency Plan in the context of the 90-day period of time provided by G.L. c. 25, § 21(d)(2) to review an Energy Efficiency Plan.

(b) Pre-Hearing Statements

Each party will be required to: (1) file a pre-hearing statement pursuant to the schedule established for a proceeding, and (2) timely update its pre-hearing statement as warranted. To the extent that the information required in a pre-hearing statement is set forth in a Program Administrator's Energy Efficiency Plan, a Program Administrator's reference to the provision in its Energy Efficiency Plan containing that information will satisfy the pre-hearing statement in that regard. Each pre-hearing statement shall set forth the following information:

- the name of all witnesses who may be called to testify by the party, along with the subject matter of each such witness' testimony;
- a description of all exhibits that may be used by the party in presenting its case and the witness sponsoring each;
- a statement of the party's basic position in the proceeding;
- a statement of each question of fact, question of law, and policy question that the party considers at issue, along with the party's position on each issue, and, where applicable, the names of the party's witness(es) who will address each issue;
- a statement of issues to which the parties have stipulated;
- a statement of all pending motions or other matters the party seeks action upon;
- a statement identifying the party's pending requests or claims for confidentiality; and
- any objections to a witness' qualifications as an expert.

(c) Technical Session

The Department may conduct a joint technical session after the filing of the Energy Efficiency Plans. The focus of the technical session will be to reduce the need for non-substantive discovery requests.

(d) Joint Hearing for Common Issues

The Department may conduct joint evidentiary hearings on issues common to some or all of the individual Energy Efficiency Plans.

3.7.3 Model Procedural Schedule

The model procedural schedule is intended to guide the expectations of the parties as to the general schedule that will be observed in a proceeding to review an Energy Efficiency Plan. An actual procedural schedule will be established for the review of each Program Administrator's filing and may depart from the model.

Event	Date
Energy Efficiency Plan filed	On or before October 31 (F)
Council Track: intervention petition; discovery commences	F + 1 business day (all references in this table are to business days)
Notice and Order of Notice issues	F + 1
Council Track: intervention answer	F + 3
Council Track: pre-hearing statement	F + 5
Notice published	F + 6
Non-Council Track: intervention petition	F + 9
Technical session	F + 9
Council Track: intervenor testimony	F + 11
Non-Council Track: intervention answer	F + 11
Non-Council Track: discovery commences	Upon Department ruling on a petition to intervene
Non-Council Track: pre-hearing statement; intervenor testimony	F + 15
Discovery closes	F + 16
Discovery responses	F + 21
Public hearing	F + 21
Evidentiary hearings	F + 22 through 28
Simultaneous initial brief	10 days after close of evidentiary hearing
Simultaneous reply brief	15 days after close of evidentiary hearing, but not later than F + 43

3.8 Mid-Term Modifications

3.8.1 A Program Administrator that seeks to make significant modifications to its Energy Efficiency Plan, as defined below, shall submit its proposed modifications for review and approval by the Department as part of its Energy Efficiency Annual Report filing.

3.8.2 A modification is deemed to be significant if it would result in: (a) the addition of a new Energy Efficiency Program or the termination of an existing Energy Efficiency Program; (b) a change in an Energy Efficiency Program budget of greater than 20 percent; (c) an Energy Efficiency Program modification that leads to an adjustment in savings goals that is greater than 20 percent; or (d) an Energy Efficiency Program modification that leads to a change in performance incentives of greater than 20 percent.

3.8.3 A Program Administrator that seeks to make significant modifications to its Energy Efficiency Plan must submit the proposed modifications to the Council for its review prior to submitting such proposed modifications to the Department.

3.8.4 Any request by a Program Administrator for approval of significant modifications to its Energy Efficiency Plan must be accompanied by: (a) sufficient justification for why the proposed modification is appropriate; and (b) the results of the Council's review of the proposed modification.

3.8.5 During the term of its Energy Efficiency Plan, a Program Administrator may propose changes to its Energy Efficiency Program planning assumptions or the types of costs and benefits to be included in its cost-effectiveness analysis when evaluating its Energy Efficiency Programs. Any such proposal shall first be presented to the Council for approval. The Department will then consider such proposals as part of its review of the Energy Efficiency Annual Reports. Any such proposals that are accepted by the Department can be applied to future plan years.

Section 4: Department Review of Energy Efficiency Reports

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Section 5: Exceptions

These Guidelines set forth (a) the filing requirements applicable to Program Administrators, and (b) the standards by which the Department will review Energy Efficiency Plans and Energy Efficiency Reports. A Program Administrator that seeks an exception to a provision included herein shall have the burden to demonstrate the compelling nature of such request.