



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 10-53-C/-D/-E

March 28, 2014

Investigation by the Department of Public Utilities regarding Purchase of Receivables pursuant to G.L. c. 164, § 1D and G.L. c. 164, § 76.

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I. INTRODUCTION AND PROCEDURAL HISTORY

On June 16, 2011, the Department issued an Order establishing model terms and conditions for electric distribution companies to implement a purchase of receivables (“POR”) program pursuant to G.L. c. 164, § 1D.¹ Purchase of Receivables Investigation, D.P.U. 10-53-A (2011). Pursuant to that Order, the Department directed each of the four electric distribution companies to submit revised Terms and Conditions for Competitive Suppliers (“Terms and Conditions”) and POR implementation plans. The Department docketed these filings as follows: Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”), D.P.U. 10-53-B;²

¹ As amended by § 60 of St. 2008, c. 169, an Act Relative to Green Communities, G.L. c. 164, § 1D provides:

For electric suppliers who have chosen the complete [*i.e.*, single] billing method, the electric distribution company shall make timely payments to such suppliers in accordance with this paragraph. The distribution company shall: (a) bill all of the electric supplier’s customers in a service class according to complete billing; (b) pay such suppliers the full amounts due from customers for generation services in a time period consistent with the average payment period of the participating class of customer, less a percentage of such amounts that reflects the average of the uncollectible bills for the participating customer classes of the electric distribution company and other reasonable development, operating or carrying costs incurred, as approved by the [D]epartment.

² This Order does not include a ruling on Unitil’s POR implementation plan. Unitil has not yet submitted its final compliance filing because it is in the process of replacing its customer information system (“CIS”) and cannot proceed with POR implementation until that process is complete (May 1, 2013 letter from Gary Epler to the Department on behalf of Unitil). Unitil has reached general agreement with the competitive suppliers on a permanent solution to POR implementation that Unitil would implement before its new CIS becomes fully operational in 2015 (December 16, 2013 letter from Jon M. Bonsall to the Department on behalf of Unitil). In the meantime, Unitil has been reviewing the other Companies’ filings and working on revisions to its supplier service agreements and Terms and Conditions (*id.*). Unitil further states that it will provide its proposed filings to the competitive suppliers for review and comment before submitting its final compliance filing to the Department (January 22, 2014 letter from Jon M. Bonsall to the Department on behalf of Unitil).

Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid (“National Grid”), D.P.U. 10-53-C; NSTAR Electric Company (“NSTAR”), D.P.U. 10-53-D; and Western Massachusetts Electric Company (“WMECo”), D.P.U. 10-53-E (National Grid, NSTAR, and WMECo are referred to collectively herein as the “Companies”). The Attorney General of the Commonwealth filed a notice of intervention pursuant to G.L. c. 12, § 11E, and the Department granted motions to intervene from the following parties: Dominion Retail, Inc. (“Dominion”); Retail Energy Supply Association (“RESA”); Consolidated Edison Solutions, Inc.; and TransCanada Power Marketing Ltd (“TransCanada”). The Department also granted a motion for limited participant status from the Cape Light Compact.

Thereafter, the Department conducted a joint technical conference with all participants to the POR proceedings to discuss issues relating to the Companies’ compliance filings. To resolve two legal questions regarding implementation of the POR program, the Department solicited briefs and issued an interlocutory order. D.P.U. 10-53-B/-C/-D/-E Interlocutory Order (April 24, 2012). The parties continued discussing outstanding issues regarding the Terms and Conditions and the supplier service agreements (“SSAs”), occasionally reporting their progress to the Department.

At the Department’s direction, and following two more technical conferences, the Companies updated their compliance filings on May 1, 2013. Dominion, RESA, TransCanada, and the Companies submitted initial and reply comments on May 15, 2013, and May 29, 2013, respectively. The parties disagreed on a large number of items concerning both POR

implementation details and risk-related SSA issues.³ In an effort to facilitate further discussion and agreement on these issues, the Department convened all the parties for technical conferences on August 27, 2013, and October 8, 2013. These conferences led to agreement in a few areas but did not resolve all the issues.⁴

On October 18, 2013, the Department issued a Hearing Officer Memorandum that identified the issues that remained to be resolved and sought further information that would facilitate the Department's analysis of these issues. On November 7, 2013, the Companies submitted a letter to the Department stating that the parties had continued to conduct good faith discussions and had reached an agreement in principle on the outstanding issues. Thus, rather than provide further information on the issues for the Department's analysis, on December 6, 2013, the Companies submitted revised compliance filings that reflected the parties' agreements. The Department solicited comments on these compliance filings, and only RESA filed comments (opposing NSTAR's request for more time to implement its POR program); NSTAR filed a response thereto. We discuss this issue separately below.

³ More specifically, the unresolved POR implementation details included the following: uniformity of SSAs; POR formula calculations; timing of challenges for billing errors; timing of payments; rights of offset; amortization of administrative costs; POR implementation before final Department Order; exclusion of certain customer types; and purchase of existing receivables. The unresolved risk-related SSA issues included: indemnification; warranties; hold harmless clauses; information regarding accounts receivable; and nondisclosure agreements.

⁴ The remaining unresolved issues included: POR formula calculations; timing of challenges for billing errors; rights of offset; exclusion of certain customers types; purchase of existing receivables; and the risk-related SSA issues.

II. PURPOSE OF POR

The purpose of a POR program is to mitigate the risk that competitive suppliers bear regarding nonpayment by their customers, thus avoiding the need for suppliers to undertake costly credit screening and selective enrollment processes, particularly for small commercial and residential customers.⁵ D.P.U. 10-53-A at 2-3. A POR program mitigates such risk by establishing the terms and conditions by which the electric distribution companies purchase the billing accounts receivable of competitive suppliers operating in the distribution companies' service territories. D.P.U. 10-53-A at 3.

The most important component of a POR program is establishing the discount rate at which the Companies purchase the receivables from the competitive suppliers (i.e., the percentage discount that each Company applies to the full amount owed to competitive suppliers participating in the program). D.P.U. 10-53-A at 3 n.3. In turn, the most important component of the discount rate is the uncollectible percentage ("UP"),⁶ which is calculated for each customer class based on actual uncollectible expense data for all distribution customers in the applicable class, and for the most recent period for which such data are available (Terms and Conditions, ¶ 8B.2.b). In their compliance filings, the Companies propose the following UPs:

⁵ The expectation is that implementation of a POR program will reduce the barriers that competitive suppliers face in seeking entry into the competitive market, thereby increasing the number of market participants and enhancing retail competition. D.P.U. 10-53-A at 3.

⁶ The other components of the discount rate are: (1) the administrative costs incurred by the company in implementing the POR program; and (2) the reconciliation of projected and actual uncollectible expenses experienced during the previous year. See D.P.U. 10-53-A at 6.

	Residential	Small C&I	Large C&I
National Grid	1.98%	0.83%	0.18%
NSTAR	1.47%	0.45%	0.13%
WMECo	2.13%	0.26%	0.30%

III. POR IMPLEMENTATION DATE

A. Introduction

In the June 2011 Order, the Department established a POR implementation schedule: National Grid and WMECo, having affiliates in other jurisdictions with established POR programs, were to implement their POR programs within three months after the Department's final decision on their POR plans; NSTAR and Unitil were to implement their POR programs within six months after the Department's final decision on their POR plans. D.P.U. 10-53-A at 18. While National Grid and WMECo have incorporated a three-month implementation period into their POR implementation plans, NSTAR requests permission to implement its POR program within eight months of the date of the Department's final Order (NSTAR Compliance Filing at 3 (December 6, 2013)). RESA opposes NSTAR's request.

B. Positions of the Parties

1. NSTAR

NSTAR states that it is seeking an eight-month implementation period for its POR program to allow sufficient time for the Company to make necessary changes to its information technology and billing systems so that the program will commence successfully from day one

(NSTAR Comments at 2). NSTAR claims that because it does not have a current POR program, it must make comprehensive changes to its systems to offer POR to competitive suppliers in its service territory (NSTAR Comments at 2). The Company further contends that, in light of the number and scope of system changes already in progress based on final orders issued by the Department in other proceedings, and the work necessary to make further system changes to implement POR, eight months is a reasonable and achievable time period within which to implement its POR program (NSTAR Comments at 2). NSTAR notes that RESA is the only competitive supplier involved in these proceedings that is contesting the Company's request (NSTAR Comments at 4).

Regarding WMECo's willingness to adhere to a three-month implementation period, NSTAR explains that although the two companies are related under the umbrella of Northeast Utilities, they have separate billing systems without any synergies in the systems that would allow NSTAR to expedite implementation of its own POR program (NSTAR Comments at 2-3). Moreover, NSTAR points out that WMECo's ability to implement its POR program within three months is contingent upon the Department's allowing WMECo to adopt certain aspects of the POR program from Connecticut, such as the use of a monthly spreadsheet and payment process (NSTAR Comments at 3 n.2, citing WMECo POR Implementation Plan at 1-2 (May 1, 2013)).

Moreover, the Company argues that an eight-month implementation period would result in lower administrative costs than would a six-month implementation period (approximately \$1.28 million versus approximately \$1.53 million) (NSTAR Comments at 3 & Atts. A-1, A-2, citing NSTAR Compliance Filing (May 1, 2013)). NSTAR further argues that allowing the

Company's request will minimize the possibility that the Company will need to seek an extension in the future and will allow for more certainty regarding the POR implementation timetable (NSTAR Comments at 4).

2. RESA

RESA opposes NSTAR's request for an eight-month POR implementation period (RESA Comments at 5). RESA contends that because the parties have resolved all of the major issues and POR implementation is inevitable, there are no justifiable reasons for NSTAR to delay POR implementation (RESA Comments at 5-6). RESA also contends that there is no reason that NSTAR could not immediately commence any planning necessary to implement POR, before the final Order, especially where NSTAR's affiliate, WMECo, has already implemented POR in its service territory and is not seeking any additional implementation time (RESA Comments at 4-5). RESA requests that NSTAR be held to the existing implementation schedule and, if it later determines that it cannot implement POR within the timeframe previously established, request an extension for legitimate reasons (RESA Comments at 6).

In addition, RESA argues that there is no data to support NSTAR's representation that an eight-month implementation period would present lower administrative costs than a six-month implementation period (RESA Comments at 5). RESA also notes that NSTAR declined to agree to cap its administrative costs when RESA suggested the concept (RESA Comments at 5). RESA urges the Department to act quickly so that POR may be implemented in Massachusetts in early to mid-2014 without further delay, to advance retail market development (RESA Comments at 5).

C. Analysis and Findings

Having reviewed the issues and relevant evidence, the Department rejects NSTAR's request for an eight-month implementation period. NSTAR has known for years that Massachusetts law requires NSTAR to implement a POR program and, but for a few final issues, NSTAR could have begun its implementation work well in advance of this Order. We expect that NSTAR will be able to benefit from Northeast Utilities' experience with POR and WMECo's ability to implement POR in three months, even if there are no established synergies between NSTAR and WMECo. Moreover, based on our consideration of the efforts of National Grid and WMECo to implement their respective POR plans, we find that six months will allow sufficient time for NSTAR to make the necessary changes to its information technology and billing systems. In fact, allowing eight months might simply enable NSTAR to expand its implementation efforts to fill the time available, leading to unexpected inefficiencies and costs. Thus, since the parties have been negotiating POR details for so long and have resolved all of the major issues, we find no need for further delay of NSTAR's POR program. Accordingly, we reject NSTAR's request and direct NSTAR to implement its POR program within six months from the date of this Order, as originally directed. D.P.U. 10-53-A at 18.

We are also not convinced that a six-month implementation period will prove substantially more costly than an eight-month implementation period, as NSTAR argues (NSTAR Comments at 3 & Atts. A-1, A-2, citing NSTAR Compliance Filing (May 1, 2013)).⁷ The Department will review NSTAR's POR-related administrative costs for approval when

⁷ During the six-month period, we expect NSTAR to budget its time wisely and find ways to curtail costs where possible.

NSTAR submits its annual POR filing. Administrative costs will be reviewed to determine whether they are reasonable, incremental, and properly allocable to the POR program.

IV. APPROVAL OF COMPLIANCE FILINGS

The Department has reviewed the Companies' compliance filings, which include the revised Terms and Conditions, POR Implementation Plans, and SSAs, and finds that they accord with our prior Order, D.P.U. 10-53-A. We further find that the compliance filings properly reflect resolution of the various issues as negotiated by the parties, including all the implementation details and the risk-related SSA provisions noted above. The Department finds that the issues as resolved by the parties are consistent with the policy objectives of a successful POR program and are in the public interest. Accordingly, with the exception of NSTAR's implementation issue discussed above, the Department approves the Companies' compliance filings as submitted.

V. POR WORKING GROUP AND ANNUAL REPORTINGS

The POR provisions included in the Companies' Terms and Conditions and SSAs, as approved by the Department in this Order, establish a solid framework for the implementation of each Company's POR program. The Department recognizes, however, that implementing the programs so as to optimize their value to customers will require resolution of details that are not addressed in these documents, particularly in the early stages of POR implementation (see TransCanada May 15, 2013 Comments at 3; Dominion May 29, 2013 Reply Comments at 8-9).⁸

⁸ For example, TransCanada and Dominion state that they, as well as other competitive suppliers, may need to make technical changes to their systems in order to accommodate the system changes that the Companies will be making to implement POR (TransCanada May 15, 2013 Comments at 3; Dominion May 29, 2013 Reply Comments at 8-9).

Consistent with TransCanada's and Dominion's comments, the Department will convene a working group to address and resolve these implementation details as they arise (see TransCanada May 15, 2013 Comments at 3; Dominion May 29, 2013 Reply Comments at 8-9).

Pursuant to the Terms and Conditions included in the compliance filings, each company will submit a POR filing on March 15th of each year that will include the calculation of the discount rates to be effective on May 1st of that year (see, e.g., NSTAR POR Implementation Plan, Terms and Conditions, ¶ 8B.2.a (December 6, 2013)). The Department will review for approval the components of each company's discount rate (see Section II above).

VI. ORDER

Accordingly, after notice, comment, and due consideration, it is:

ORDERED: That the December 6, 2013 compliance filings submitted by Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, NSTAR Electric Company, and Western Massachusetts Electric Company are each hereby APPROVED; and it is

FURTHER ORDERED: That Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid and Western Massachusetts Electric Company shall implement their respective purchase of receivables programs within three months of the date of this Order; and it is

FURTHER ORDERED: That NSTAR Electric Company shall implement its purchase of receivables program within six months of the date of this Order; and it is

FURTHER ORDERED: That Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, NSTAR Electric Company, and Western Massachusetts Electric Company shall comply with all directives contained in this Order.

By Order of the Department,

/s/

Ann G. Berwick, Chair

/s/

Jolette A. Westbrook, Commissioner

/s/

Kate McKeever, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.