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July 6, 2023

Mark D. Marini, Secretary
Massachusetts Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: ***Investigation by the Department of Public Utilities into the Provision of Basic Service,* D.P.U. 23-50**

Dear Secretary Marini:

On January 4, 2023, the Department of Public Utilities (the "Department") issued an order opening an investigation into the provision of basic service electricity supply (the "Investigation"). The Department indicated that there will be two phases to the Investigation, the first of which will address potential modifications proposed by the Department that the Electric Distribution Companies (the "Companies" or the "EDCs") would be able to implement in a short timeframe (Phase One Proposals).[1, 2] As part of the first phase of the Investigation, the Department proposed to modify the basic service fixed-rate and procurement periods so as to separate the monthly basic service rates of January and February into different fixed-rate periods, effectively establishing uniform fixed-rate periods for all EDCs and all customers. Vote and Order Opening Investigation ("Order"), at 26. The Department provided opportunity for comment and held a Technical Session related to the Phase One Proposals, and then requested follow up comment from stakeholders specifically on the proposal to separate January and February into different fixed-rate periods. Hearing Officer Memorandum (May 31, 2023), at 2.

The Attorney General's Office (the "AGO") agrees that separating January and February into different fixed-rate periods will help to smooth rates overall and minimize the differences

[1] In its phase one proposal, the Department proposes to establish (1) standard criteria that the Companies would use to determine whether a failed solicitation occurred; (2) alternative procurement strategies for when a failed solicitation occurs; (3) alternative pricing strategies for when a failed solicitation occurs; (4) reconciliation of basic service under- and over-recoveries when these strategies are used; and (5) regulatory process filing requirements for basic service filings. Order, at 27.

[2] In the second phase of the Investigation, the Department will "examine more extensive modifications to the existing procurement and pricing policies." Order, at 18.

between basic service rates offered by the three EDCs.[3] Accordingly, the AGO submits these comments in support of this proposal and in response to the Hearing Officer's May 31, 2023 Memorandum and the initial comments filed by stakeholders on June 22, 2023. The AGO addresses two issues in these comments: (1) placing residential and small commercial basic service rates for January and February in separate six-month fixed-rate periods;[4] and (2) transitioning from the Companies' existing pricing and procurement periods to the Department's proposed periods.

A. Background

In the Hearing Officer Memorandum dated May 31, 2023, the Department specifically sought "comments on [the Department's] proposal regarding basic service fixed-rate and procurement periods (in which monthly basic service rates for January and February would be included in separate six-month fixed-rate periods)." Hearing Officer Memorandum (May 31, 2023), at 2. The Department further directed the EDCs to propose methods for transitioning their existing pricing and procurement periods as well as a staggered schedule to accommodate the new procurement timing. *Id.* Finally, the Department also requested that the Retail Energy Supply Association ("RESA"), Vitol, Inc. ("Vitol"), Constellation Energy Generation, LLC ("Constellation"), and other parties "as appropriate" provide "information that quantifies the effect that the Department's proposed pricing and procurement periods might have on the wholesale energy markets." *Id.*

On June 22, 2023, each of the EDCs, including Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil"), Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid ("National Grid"), and NSTAR Electric Company d/b/a Eversource Energy ("Eversource"), the Department of Energy Resources ("DOER"), and NRG Retail Companies ("NRG") submitted comments.[5] Notably, neither RESA, Vitol, nor Constellation submitted comments on June 22, 2023, despite the Hearing Officer's specific request that they do so to substantiate their earlier comments.

Evident in the comments submitted on June 22, 2023 is widespread support for the Department's proposal to separate January and February into different fixed-rate periods. DOER, Eversource, and Unitil unequivocally supported the Department's proposal for residential and small commercial customers. DOER noted that customers have shown a preference for less price volatility in electric supply rates even if modifying basic service fixed-rate periods may not result in overall cost savings. DOER Comments, at 2. Eversource supports the Department's proposal in part because no party produced valid and reliable quantification of the potential increase in risk premiums purported by RESA, Vitol, and Constellation during the

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[3] *See* D.P.U. 15-40, Comments of the Attorney General's Office, at 2 (July 27, 2015).

[4] Basic service rates, pricing periods and procurement periods refer to those serving residential and small commercial customers throughout these comments unless otherwise specified.

[5] Direct Energy Business, LLC, Direct Energy Services, LLC, Energy Plus Holdings, LLC, Green Mountain Energy Company, Inc., NRG Home f/k/a Reliant Energy Northeast LLC and XOOM Energy Massachusetts, LLC collectively filed comments as "NRG Retail Companies."

Technical Session. Eversource Comments, at 5. Eversource also notes that no party produced evidence of any impact to wholesale suppliers' hedging strategies. *Id.* For its part, Unitil noted that the Department already approved Unitil's proposal to shift basic service periods for residential and small commercial customers to the fixed-rate periods proposed by the Department (i.e., February 1 through July 31, and August 1 through January 31). Unitil Comments, at 2.

National Grid also supports the Department's proposal to separate the months of January and February into different fixed-rate periods, but stated that it is "mindful" of the fact that certain basic service suppliers highlighted challenges and potential adverse effects of separating the months of January and February (and similarly, July and August) into different procurement periods. National Grid Comments, at 1–2. National Grid also pointed to a subtle yet important distinction between basic service pricing periods and basic service procurement periods. *Id.*, at 2; *see also* NRG Comments, at 4. A basic service procurement period is the time period (or "strip" of months) for which basic service supplies are purchased simultaneously as part of the same solicitation and procurement transaction.[6] A basic service pricing period is the time period for which a fixed basic service rate is set for the particular time period. An EDC's basic service procurement and pricing periods need not necessarily align. Rather, an EDC can use a combination of completed procurements and load and price/cost forecasts to determine a fixed retail rate for a basic service pricing period even if that pricing period is distinct from the procurement period.

Finally, while NRG stated neither a clear objection to nor support for the Department's proposal to place January and February in separate basic service fixed-rate periods, NRG claimed that the proposed change may not actually result in decreased costs to customers, even if it reduces some volatility. NRG Comments, at 5.[7] Like National Grid, NRG also noted the distinction between basic service pricing periods and basic service procurement periods.

B. AGO's Recommendation that the Department Proceed with its Proposal to Separate the Months of January and February into Different Rate Periods.

The AGO recommends that the Department proceed with its proposal and order the EDCs to separate the peak months of January and February into different basic service rate periods. Based on the anticipated benefits of this shift, including reducing overall rate volatility and also minimizing the differences between rates offered by the three EDCs, as well as the widespread support for the proposal and the lack of quantifiable evidence that such a shift will have any material negative impact on prices, now is the time to implement this policy change.

During the May 17, 2023 Technical Session, certain stakeholders claimed that the Department's proposal to separate the winter strip (January and February) or the summer strip (July and August) into different basic service procurement periods would raise the risk premiums charged by wholesale suppliers, reduce participation in basic service auctions, and / or increase the risk of a failed solicitation. In response, the Department specifically requested some

[6] A basic service procurement is also referred to as an "auction" or a "request for proposals."

[7] Note, however, that DOER analysis has demonstrated that customers have a preference for less price volatility in electric supply rates. *See* DOER Comments, at 2.

quantification of this alleged risk in the June 22, 2023 comments.[8] However, no party provided concrete information or estimates in response and therefore, these claims remain unquantified and speculative. Additionally, wholesale suppliers currently bid monthly prices in the basic service auctions. To the extent projected and/or realized basic service loads for January and February (and for July and August) are not identical, wholesale suppliers already account for the difficulty of hedging for single months in their monthly bid prices between January and February (and between July and August).

The AGO expects a market to develop for any particular product the Massachusetts EDCs seek to purchase. Based on its New York affiliate's experience in the New York ISO, National Grid acknowledged this likelihood, although expressed concerns regarding the timing of such development. *See* National Grid Comments, at 3. While it is impossible to predict the precise timing, the AGO does not believe that this concern is consequential enough to prevent the Department from implementing its preferred policy of reducing inter-seasonal basic service rate variability. The diverse and sophisticated set of players that participate in wholesale electricity markets (e.g., generation owners, generation developers, financial traders, retail electricity suppliers, wholesale suppliers of basic service products to utilities, public and investor-owned utilities, brokers and aggregators, municipal aggregation entities) should be fully capable of adjusting to altered market preferences by offering or procuring new products.

Further, to the extent that demand for monthly products results in price differences as compared to seasonal or annual strip products, market participants have an incentive to address these pricing misalignments by buying and selling across both markets (i.e., price arbitrage). That is, market participants could—and likely would—leverage their modeling and forecasting capabilities as well as financial and physical resources to take advantage of such pricing misalignments and, in the process, eliminate or at least substantially reduce such discrepancies. In all likelihood, the market would find its equilibrium quickly.

National Grid acknowledged that New Hampshire EDCs successfully procure full-requirements basic service supply products with pricing periods that are similar to those proposed by the Department. National Grid Comments, at 3. However, National Grid cautioned that the circumstances are not directly comparable because New Hampshire EDCs procure six-month contracts whereas Massachusetts EDCs procure 12-month contracts. *Id.* The essence of National Grid's argument is that a wholesale supplier could procure a monthly hedge seven months prior to the delivery period, but not 13 months prior to the delivery period. This argument is speculative and not supported by evidence, whereas New Hampshire's experience demonstrates that once demand for specific wholesale products is created (in this case for monthly products up to seven months prior to the delivery period), requisite liquidity develops relatively quickly in the wholesale market. If the Department's proposed procurement and pricing periods create the need for liquidity up to 13 months prior to the delivery period, it is reasonable to assume that the wholesale market would adapt and provide such liquidity.

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[8] The Hearing Officer requested that RESA, Vitol, Constellation and "others as appropriate" include "information that quantifies the effect that the Department's proposal might have on the wholesale energy markets" in their comments. Hearing Officer Memorandum (May 31, 2023), at 2.

In sum, speculative and unquantified concerns about potentially increased risk premiums and / or increased risk of failed solicitations should not deter the Department from implementing its policy preference for increased basic service rate stability, a preference which is shared by a broad base of stakeholders. The AGO therefore recommends that the Department move forward with ordering the EDCs to place residential and small commercial basic service rates for January and February into separate six-month fixed-rate periods.

C. Transition Plans Proposed by the Distribution Companies

In addition to providing support for the Department's proposal, Eversource and National Grid each proposed alternative plans to transition from their current procurement and pricing schedule to the schedule proposed by the Department.[9] National Grid outlines four different procurement and pricing period options (referred to by National Grid as "Transition Plans" when combined with interim arrangements to transition from the current procurement and pricing periods to the ones proposed by the Department). Eversource also outlined a procurement and pricing plan that corresponds to National Grid's first proposed Transition Plan, and it is identical to the Department's proposal, following an "anomalous purchase."[10]

National Grid's first and second Transition Plans conform to the Department's proposal for both procurement and pricing periods (i.e., February 1 through July 31, and August 1 through January 31 for both procurement and pricing). Under the first Transition Plan, auctions would be held twice per year (i.e., 50 percent of supplies are procured at each auction), while the second Transition Plan contemplates quarterly auctions (i.e., 25 percent of supplies are procured at each auction). Under the third and fourth Transition Plans, the pricing periods would conform to the Department's proposal, but the proposed procurement periods would differ from the Department's proposal by one month (i.e., procurement periods would be January through June and July through December, but pricing periods would be February through July and August through January). National Grid Comments, at 3. Like the first two, the third and fourth Transition Plans contemplate either two or four auctions per year, respectively. Under the third and fourth Transition Plans, the rates for the first five months of the six-month basic service period would be based on accepted bids, while the rate for the last month would be based 50 percent on accepted bids and 50 percent on an estimate.

The AGO appreciates the innovative options presented by National Grid, and believes that all four options are preferable to the status quo. The AGO prefers the first two options to the last two options for two reasons. First, misalignment of procurement and pricing periods will lead to increased reconciliation balances, which, all else equal, is an undesirable outcome because large reconciliation balances can lead to cost shifts between basic service customers and

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[9] As explained above, as of Unitil's most recent basic service petition which the Department approved on September 14, 2022, Unitil is already operating on the basic service periods proposed by the Department (i.e., February 1 through July 31, and August 1 through January 31).

[10] Some sort of "anomalous purchase" will be necessary when this transition is initiated to get the EDCs' procurement and pricing timing onto the new schedule, i.e., Eversource will have to purchase 100 percent of its supply requirements for one or two months in order to realign their rates to split January and February. *See* Eversource Comments (June 22, 2023), at 6.

customers receiving supply through a municipal aggregation or an individual supplier. Second, in the event that the projected reconciliation balance increases beyond a threshold, which would be attributable mostly to the price variability in the last month of the six-month pricing period, the six-month basic service fixed rate would be adjusted in the middle of the pricing period under National Grid's third and fourth Transition Plans. This would frustrate the Department's goal of rate stability and, all else equal, is also an undesirable outcome. Customers prefer rate predictability, so an unexpected rate adjustment in the midst of a fixed-rate pricing period may cause confusion and potential hardship to customers. While it is unlikely that price variability in only half of one month's supply cost (out of six months) will trigger an interim adjustment, it is still a concern given the high-load, high-price, and volatile nature of the last month of each basic service pricing period (i.e., January and July are highly variable months).

Between the first two Transition Plans proposed by National Grid, the AGO prefers the second option. Conducting more frequent auctions and purchasing a smaller share of the load requirements in each auction is preferable because it reduces market price risk and bolsters rate stability.[11] This is likely to be true so long as the size of the load solicited in each auction is large enough to attract robust participation by wholesale suppliers. In this regard, the desired frequency of procurements may vary from EDC to EDC. While larger EDCs (with larger loads) can accommodate more frequent procurements (e.g., quarterly), smaller EDCs (with smaller loads) may need to conduct procurements less frequently (e.g., biannually). Therefore, the AGO believes that National Grid's second proposed Transition Plan is better suited for National Grid and Eversource, while the Department's proposal (which coincides with National Grid's first Transition Plan, the option laid out in Eversource's comments, and Unitil's current arrangements) is better suited for Unitil.

D. AGO's Proposed Alternative Procurement and Pricing Periods

After having reviewed the comments submitted on June 22, 2023, the AGO suggests an alternative procurement and pricing approach that may simplify the effort to achieve the Department's preference to separate the months of January and February into different rate periods. Under the AGO's alternative basic service procurement and pricing option, the EDCs could continue to procure the same 12-month full-requirements products that they procure today (i.e., January to December and July to June for Eversource; November to October and May to April for National Grid; and February to January and August to July for Unitil) every six months.[12] The basic service fixed-price periods would also stay the same (e.g., January to June

[11] In addition to National Grid, Constellation also identified quarterly auctions as an option in its initial comments. *See* Comments of Constellation Energy Generation, LLC (Feb. 8, 2023), at 5–6.

[12] With respect to basic service, the Electric Restructuring Act states that EDCs "shall procure such service through competitive bidding; provided, however, that the default service rate so procured shall not exceed the average monthly market price of electricity; and provided, further, that all bids shall include payment options with rates that remain uniform for periods of up to six months." M.G.L. c. 164, § 1B(e). It is important to note that the statute does not explicitly mandate a fixed six-month procurement schedule for basic service or fixed customer rates. Instead, it emphasizes the requirement of uniform rates for "up to six months." *Id.* This

and July to December for Eversource; November to April and May to October for National Grid). However, instead of their current practice of setting basic service fixed rates based on the average of six-month blended prices that result from the basic service auctions, the EDCs could set the six-month basic service fixed rates based on the average of 12-month blended prices that would result from the basic service auctions. The 12-month basic service product can be solicited and procured as a single product, or it can be procured as two separate six-month products, as is done today. The mechanics of this alternative basic service procurement and pricing framework are illustrated in Figure 1.[13]

	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24
March 2023 Auction Price ($/MWh)	70	70	90	75	65	65	90	140	170	160	110	80
	12-Month Blended Price: $100/MWh											
September 2023 Auction Price ($/MWh)							120	170	200	190	140	110
							12-Month Blended Price: $130/MWh					
March 2024 Auction Price ($/MWh)												
Variable Basic Service Rate ($/MWh)							105	155	185	175	125	95
Fixed Basic Service Rate ($/MWh)							115					

	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	Apr-25
March 2023 Auction Price ($/MWh)												
September 2023 Auction Price ($/MWh)	100	100	120	105	95	95						
March 2024 Auction Price ($/MWh)	50	50	70	55	45	45	70	120	150	140	90	60
	12-Month Blended Price: $80/MWh											
Variable Basic Service Rate ($/MWh)	75	75	95	80	70	70						
Fixed Basic Service Rate ($/MWh)	105											

Figure 1. Basic Service Procurement and Pricing Illustrative Example

Figure 1 demonstrates the procurement of overlapping 12-month products, each of which corresponds to 50 percent of the load. The total amount to be procured in each auction would be divided into a number of slices (or tranches) based on the total load. There are at least two straightforward variations of this option, both of which would reduce market timing risk as well as basic service rate volatility. First, each product delivery period (e.g., May 2023 to April 2024) in Figure 1 could be satisfied by two separate procurements that are conducted three months apart. Under this approach, basic service supplies for a given 12-month period would be procured via two separate auctions at two different points in time, each separate auction procuring 25 percent of total load for the same product delivery period (i.e., 50 percent combined for each 12-month period)." This would be beneficial for enhancing customer rate stability as the amount of basic service supplies procured at any given point in time would be smaller, reducing market timing risk. Second, quarterly auctions can be conducted for rolling 12-month products (e.g., June 2023 to May 2024 delivery period procured in April 2023; September 2023 to August 2024 delivery period procured in July 2023; December 2023 to November 2024 delivery period procured in October 2023; and March 2024 to February 2025 delivery period procured in January 2024), where supplies for 25 percent of the total load is procured in each auction. These different product delivery periods would overlap on a staggered basis and combine to meet 100 percent of the load requirement.

This alternative procurement and pricing framework will allow the Companies to achieve the Department's inter-seasonal rate stability goal without material (or any) changes to the existing procurement products and schedules. This approach will also avoid the wholesale and

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language allows for adjustment to the procurement schedule to better align with market conditions and achieve rate stability goals. One such way to accomplish this goal is to accept monthly or 6-month period bids from wholesale suppliers and then separately combine and weight them into fixed 6-month prices available to residential and small commercial customers.

[13] In practice, the illustrative basic service rates in Figure 1 would be adjusted by the usual factors, including, but not limited to, the EDC's cost of compliance with the renewable portfolio and clean energy standards, and the basic service administrative cost adder.

retail suppliers' stated concerns regarding the splitting of the winter and summer strips. Additionally, since a new contract is added to the basic service supply portfolio quarterly or biannually, the resultant basic service rates would be reflective of market conditions. Finally, these changes can be implemented with minimal administrative burden to the Companies and without requiring interim auction schedules. Therefore, the AGO encourages the Department and the EDCs to consider implementing this alternative procurement and pricing framework.

E. Conclusion

The AGO supports the Department's proposal for the Electric Distribution Companies to separate January and February into different fixed-rate periods to smooth customers' basic service rates between seasons and rate periods and to minimize discrepancies between rates offered by the different Companies in different territories. To accomplish this goal, the AGO recommends that the Department and the Companies consider the AGO's alternative procurement and pricing framework, namely to continue procuring supply as the Companies currently do, but set rates based on the average of 12-month blended prices, as described in Section II(D). The AGO also supports the second Transition Plan proposed by National Grid, namely to shift both procurement and pricing timing to align with the Department's proposal and also to procure in 25 percent—as opposed to 50 percent—contracts, as described in Section II(C). In any case, whereas no party produced quantifiable evidence that the Department's proposed shift will lead to significant risk premiums or reduction in supplier participation, there is no reason to delay this initiative and the AGO recommends that the Department and the Companies implement the shift as soon as practicable.

The AGO appreciates the Department's consideration of these comments and looks forward to continued collaboration with all interested stakeholders in improving the design of basic service for all customers.

Respectfully submitted,

<u>/s/ Jacquelyn K. Bihrle</u>
Jacquelyn K. Bihrle
Assistant Attorney General

cc: Julianne Desmet, Hearing Officer
Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Investigation into the Provision of Basic Service	))))	**D.P.U. 23-50**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. 1.05(1) (Department's Rules of Practice and Procedure). Dated at Boston this 6th day of July, 2023.

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