



ATTORNEYS AT LAW

The firm has attorneys who
are also admitted to practice
in Idaho and Vermont

ONE GATEWAY CENTER, SUITE 851
NEWTON, MASSACHUSETTS 02458
617.244.9500

FACSIMILE: 617.244.9550
E-MAIL: bckboston@bck.com
WEBSITE: www.bck.com

May 13, 2008

***VIA ELECTRONIC MAIL
ORIGINAL BY HAND DELIVERY***

Mary Cottrell, Secretary
Department of Public Utilities
One South Station, 2nd Floor
Boston, MA 02110

Re: Investigation by the Department of Public Utilities on its own
Motion into Expanding Low-Income Consumer Protections and
Assistance, Including Standards for Arrearage Management
Programs, Discount Rate, Service Termination, and Energy
Efficiency Programs.
D.P.U. 08-4

Dear Secretary Cottrell:

Please find enclosed for filing an original and 5 copies of the Reply Comments of the
Cape Light Compact on the Investigation by the Department in the above-referenced proceeding.

Thank you for your attention to this matter. If you require further information or have
any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey M. Bernstein", written over a light blue horizontal line.

Jeffrey M. Bernstein

JMB/drj
Enclosures

cc: Kate McKeever, Hearing Officer (w/enc.) (via hand delivery and email)
Margaret T. Downey, Cape Light Compact (w/enc.) (via first class mail)

COMMONWEALTH OF MASSACHUSETTS

Investigation by the Department of Public Utilities on its own Motion into Expanding Low-Income Consumer Protections and Assistance, Including Standards for Arrearage Management Programs, Discount Rate, Service Termination, and Energy Efficiency Programs.

D.P.U. 08-4

**REPLY COMMENTS OF THE CAPE LIGHT COMPACT
ON THE INVESTIGATION BY THE DEPARTMENT FOR THE PURPOSE OF
EXPANDING LOW-INCOME CONSUMER PROTECTIONS AND ASSISTANCE**

The Cape Light Compact (the “Compact”) hereby submits Reply Comments in response to the above-captioned Investigation by the Department of Public Utilities (the “DPU” or “the Department”). These Reply Comments respond to written and oral comments provided by participants in this proceeding.¹

I. INTRODUCTION

On February 12, 2008, the Department issued an Order Opening Investigation (“Order”) in this proceeding “(1) to explore ways to build upon existing consumer protection policies; (2) to increase assistance to low-income consumers in meeting rising home energy costs; and (3) to better integrate the administration and delivery of low-income programs governing arrearage management and financial counseling, fuel assistance, discount rates, and energy efficiency.” D.P.U. 08-4, *Order Opening Investigation*, p. 4 (dated February 12, 2008). The Department requested comments responding to specific questions appended to the Order and also held public

¹ These Reply Comments are not intended to respond to every comment made in the initial Comments or public hearings. Silence on any issue should not be construed as agreement with any comment made in the initial Comments or public hearings. Also, please refer to the Compact’s initial Comments in this proceeding for a full discussion of the relevant issues.

hearings on the various topics. On April 28, 2008, the Department solicited Reply Comments in this proceeding. These Reply Comments on behalf of the Compact, like the Compact's initial Comments, have been compiled with the assistance of local organizations that work directly with low-income clients and assist them in addressing issues specific to their needs.²

II. REPLY COMMENTS

The Compact is pleased that there is broad agreement with the Department's basic idea of improving programs and services for low-income consumers. As the overwhelming majority of participants noted in both their oral and written comments, there is a need to improve programs and services for low-income consumers. This hardship has been aggravated by radically changed circumstances regarding higher energy costs, as indicated by parties such as the Network/MEDA (Low-Income Weatherization and Fuel Assistance Network and Massachusetts Energy Directors Association) and the DOER/DHCD (Commonwealth of Massachusetts Division of Energy Resources and Department of Housing and Community Development).³ The Compact is sensitive to the needs of low-income customers. However, the Compact is also cognizant of the potential burden of these programs on other customers. The Compact therefore

² The Compact gratefully acknowledges the participation of: Robin Carroll of Lower Cape Outreach; Lisa Spencer of South Shore Community Action Council; Nancy Friend of Dennis Housing Authority; Sandee Perry of Barnstable Housing Authority; Donna Muncherian of Barnstable Housing Authority; Ruth Bechtold of Housing Assistance Corporation (Energy Division); Betsey Setharis of Cape Cod Times Needy Fund; Lorraine Cabral of Cape Cod Times Needy Fund; Deborah H. Galvin of Housing Assistance Corporation; and Yvonne Souza of Housing Assistance Corporation. The Compact also acknowledges the assistance of the Cape Light Compact Board members, including Chairman Robert Mahoney, Vice-Chair Charlotte Striebel, and Secretary Barry Worth.

³ D.P.U. 08-4, *Comments of Massachusetts Energy Directors Association and Low-Income Weatherization and Fuel Assistance Network*, p. 1 (March 28, 2008) and D.P.U. 08-4, *Joint Comments of the Commonwealth of Massachusetts Division of Energy Resources and Department of Housing and Community Development*, p. 2 (March 28, 2008).

supports balancing the needs of all customers, without sacrificing the particular needs of low-income consumers.

In addition, the Compact agrees with the comments of many parties with regard to the need for collaboration and a pragmatic, comprehensive approach to improving programs and services for low-income consumers. However, the Compact emphasizes that the need to address the situation of many low-income customers is immediate and compelling. The Compact urges the Department to consider steps that it can take now to assist low-income customers, including, perhaps most importantly, increasing the discount rate for low-income consumers. Thus, the Compact supports a two-phase approach. In the first phase, the Department could address concerns that can and should be addressed as soon as possible, such as the low-income discount rate. In the second phase, the Department could provide detailed guidance for collaboration and further fact-gathering on remaining issues including: (i) opportunities for information sharing across programs and agencies to better integrate low-income programs and services; (ii) design and standardization of program elements for AMPs (arrearage management programs); and (iii) appropriate use and training of collection agencies.

Finally, the Compact requests more specific Department guidance on utility programs and services. One result of the parties' initial written and oral comments was to reveal the many inconsistencies between low-income programs and services provided by the different utilities. While the Compact is aware that some of these differences result from conditions specific to the different service territories, the Compact believes that some level of standardization and consistency would be beneficial to both consumers and program administrators. The Compact believes that the Department can provide the necessary leadership and direction in this regard by

recommending specific proposals for implementation of the various low-income programs and services.

The remainder of these comments focus on low-income discount rates, energy efficiency programs, arrearage management programs, and service termination regulations.

1. Low Income Discount Rates

The Compact continues to support the tiered discount rate structure proposed by the Network/MEDA. The proposed structure meets the statutory requirement that discount rates be comparable to those in effect prior to March 1, 1998. G.L. c. 164, §1F(4)(i). In addition, the Compact agrees with the Network/MEDA that such a methodology provides the greatest benefit to the neediest low-income customers while not overburdening remaining utility customers. The Compact also believes and agrees with the Network/MEDA that the Department has discretion to expand eligibility for low-income discount rates. The Compact firmly believes that G.L. c. 164, §1F(4)(i) must be interpreted broadly in order to fulfill the intent of the Legislature that electric service for low-income customers be as affordable as possible.⁴

The Compact proposes increasing the eligibility threshold to up to 80% of median income; however, if the Department determines that level is not warranted, the Compact believes, at a minimum, eligibility should be increased to at least 60% of median income (consistent with eligibility for low-income energy efficiency). As comments by the Network/MEDA and the DOER/DHCD amply illustrate, the cost of energy has risen

⁴ See D.P.U. 08-4, *Comments of the Cape Light Compact*, p. 10 (March 28, 2008).

dramatically. These increased costs have in all likelihood affected customers that might not have experienced problems paying their electricity bills before. The Department should consider expanding eligibility for low income discounts to up to 80% of median income in order to address the needs of those customers. In addition, the Compact believes that the low-income discount rate should apply to both residential and commercial rate customers that are eligible low-income residents living in qualified housing.

The Compact also believes that discount rates should be applied back to the date of application. As noted by the Compact in its initial comments, fuel assistance customers may wait months for fuel assistance, during which time they are not receiving benefits for which they are eligible. The Compact therefore supports applying the discount rate back to at least the date of application so that customers can receive the full benefit of the discount rate. Several parties questioned the administrative feasibility of providing “retroactive” discount rates. However, the Compact points out that at least one utility (National Grid) already has a mechanism to apply discount rates in this fashion.⁵ The Compact emphasizes that this situation does not constitute impermissible retroactive rate-making. It simply involves applying the discount rate back to the date of application, regardless of whether eligibility is determined at a later date. In addition, the Compact supports the position of the Network/MEDA that customers should be on the discount rate for a minimum of 18 months in order to avoid any disruptions to the receipt of benefits while customers are waiting to re-qualify for fuel assistance.⁶

⁵ D.P.U. 08-4, *Initial Comments of National Grid*, p. 8 (March 28, 2008).

⁶ *Comments of the Network/MEDA*, p. 29.

Many participants in this proceeding have pointed out that increasing the discount rate is a key to the successful implementation of other low-income programs. The Compact strongly agrees that increasing the discount rate should be a high priority for the Department. For example, programs like AMPs can only be successful where arrearages and the level of bills are manageable for low-income customers. As the data presented by the Network/MEDA and the DOER/DHCD indicates, bills may not be manageable for low-income customers without a significant increase in the discount rate. This in turn could lead to other negative consequences such as increased service terminations. As part of the Department's effort to address low-income issues in a comprehensive manner, the Department should consider the important role that the low-income discount plays in relation to other low-income programs and services.

2. Energy Efficiency Programs

The Compact believes it would be ideal to make all eligibility thresholds, including for energy efficiency programs, consistent at 80% of median income. The Department should consider increasing the eligibility for energy efficiency programs in light of proposed legislation that could raise additional energy efficiency funding. Otherwise, the Compact believes that low-income energy efficiency programs are well-coordinated with related programs and among the participating agencies. Energy efficiency, like discount rates, reduces customers' bills and leads to more successful participation in other low-income programs such as AMPs. Therefore, the Compact strongly advocates using all available means to increase the effectiveness of energy efficiency programs. As an example, the Compact would like to bring to the Department's attention the success of one of its recent energy efficiency programs. The Compact implemented a pilot program increasing the energy efficiency incentive from 50% to 75% of the cost of insulation and air sealing measures installed for customers at or below 80% of median income

(but above 60% of median). This program, which was implemented from January to May 2007, provided increased incentives to 29 of the 52 eligible customers. Incentives for the pilot program totaled \$39,532.49 of the overall offered amount of \$59,322.42. Of the customers that were not able to afford the applicable measures even with the 75% incentive, many pursued other measures such as ENERGY STAR® qualified lighting and appliances. One also applied for the HEAT Loan, and several others were formerly on the discount rate. During this short time period many customers, who might not otherwise have been able to take advantage of such opportunities, were able to implement energy saving measures.

3. AMPs

The Compact believes, as stated in its initial Comments, that AMPs that provide a comprehensive approach to arrearage management are the best approach for low-income customers. It also submits that AMPs should continue to be administered by qualified local agencies. As noted by several of the utilities, the utilities are not in a position to perform income verification of low-income customers or provide services such as financial counseling. In contrast, qualified local agencies already have well-established relationships with low-income clients and are able to tailor applicable programs and services based on their clients' financial status and needs. The Compact believes that low-income clients probably receive limited benefits from a "basic AMP" that only provides arrearage management without other services. The Compact believes that successful participation in AMPs depends on access to a full suite of services that address clients' needs, including counseling and other financial assistance tools.

Some participants in this proceeding have noted that increased participation in low-income programs may strain the resources of administering agencies. This is likely not an issue for agencies that already provide a broad range of services to low-income clients. For agencies

for which this may be an issue, the Compact notes that many comments identified opportunities for increased administrative efficiency through coordination between programs and agencies, such as sharing of relevant information across programs and agencies. The Compact believes that the administrative aspect of these low-income programs is an area that provides a good opportunity for increased efficiency through coordination between utilities and administering agencies; this was referred to by several parties as “one-stop shopping.” Thus, the Department has before it many suggestions to facilitate administration of these programs, including AMPs, while potentially increasing participation.

The Compact believes that auto-enrollment (with an opt-out provision) may be one strategy to increase program participation as well as ease the administrative burden. However, the Compact notes that several parties identified potential difficulties with auto-enrollment. With regard to situations where auto-enrollment may not be feasible, many parties identified opportunities for increasing enrollment for all of the low-income programs through different program cross-enrollment strategies and practices. The Compact fully supports such efforts to maximize participation in these programs. Standardizing eligibility criteria could be another way to facilitate cross-enrollment in all of the low-income programs and services.

Finally, the Compact emphasizes that success in arrearage management programs is tied to the affordability of energy bills overall. In order to assist low-income customers in paying their bills, it is vital for the Department to address affordability through the low-income discount rate and energy efficiency programs. The Department should also address specific features of AMPs such as the down payment requirement. Many low-income customers may see a high down payment requirement as a barrier to participation in AMPs. The Compact believes that reasonable and flexible payment plans and utility acceptance of third-party payments are also

factors that contribute to making participation in AMPs a realistic option for more low-income customers.

One issue that arose regarding AMPs was the ability of AMPs to be applied to the competitive supply portion of customer bills. This issue is being addressed in the Compact's service territory. The Compact continues to advocate for better training of customer service staff regarding the availability of AMPs for low-income clients on competitive supply. Budget billing is still a concern for the Compact, however, because the distribution companies do not offer budget billing for the competitive supply portion of the electric bill when a single electric bill is issued. As a result, low income customers, who may need budget billing to avoid falling behind in their monthly electric bill, have no choice but to stay on supply offered by the distribution company even if that supply is more expensive than competitive supply. Many of the Compact's low-income customers, who require budget billing as a financial management tool, pay a higher supply rate because of the inability to "budget bill" their entire electric bill. The Compact suggests in the short-term that the Department require improved education and awareness of this issue through training of customer service staff, so that customers are informed about their options for budget billing. In addition, the Compact requests that the Department address the issue of requiring distribution companies to provide budget billing for both the regulated portion and the competitive supply portion of customers' electric bills.

4. Service Termination Regulations

In general the Compact believes that current service termination regulations provide the appropriate amount of protection and enforceability. The Compact, however, agrees with the Network/MEDA with regard to the Department addressing regulations for restoring service after termination. It also agrees that customers should be offered AMPs and any other services they

may be eligible for *before* having their service terminated. While the Compact supports comments by the utilities that customers are obligated to share responsibility for their bills, service termination should be a last resort. Although a few customers may abuse available programs and services, there are many truly needy customers that are eligible for these programs and services. These programs and services exist for the benefit of such customers. Several comments included proposals requiring security deposits, interest on late payments, credit reporting, or late payment penalties in order to avoid service termination and/or restore service. Such proposals, if applied to low-income customers, would only make the financial burden on low-income customers more onerous and run counter to the goals of making service more affordable and accessible.

The Compact supports the Comments of the Medical-Legal Partnership with regard to the use of standardized forms. Standardized forms present another way in which the Department can streamline administrative efficiency while potentially increasing program participation.

Finally, a second phase of this proceeding would be an appropriate means to explore issues related to service terminations and the use of collection agencies, including: (i) how much time is appropriate for customers to address their arrears, and (ii) whether in-house and outside collections programs include proper training on available programs and services and applicable laws and regulations.

Again, the Compact emphasizes that effective low-income discounts, energy efficiency programs and AMPs can all be used to limit service terminations to situations in which they are absolutely necessary.

III. CONCLUSION

The Compact appreciates the opportunity to provide Reply Comments in this proceeding.

Respectfully submitted,

THE CAPE LIGHT COMPACT

By its attorneys,



Jeffrey M. Bernstein, Esq.

(jbernstein@bck.com)

Suzy Hong, Esq.

(shong@bck.com)

BCK LAW, P.C.

One Gateway Center, Suite 851

Newton, MA 02458

617-244-9500 (voice)

617-244-9550 (fax)

Dated: May 13, 2008