

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

PETITION OF MASSACHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC COMPANY EACH D/B/A NATIONAL GRID FOR APPROVAL TO EXCLUDE MYSTIC COST-OF-SERVICE AGREEMENT COSTS	:	
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	:	D.P.U. 22-BSF-D4
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COMMENTS OF RETAIL ENERGY SUPPLY ASSOCIATION

The Retail Energy Supply Association (“RESA”)¹ hereby files its comments in response to the Department of Public Utilities’ (“Department”) November 18, 2022 Notice of Filing and Request for Comments² in the above-captioned proceeding.

BACKGROUND

On November 10, 2022, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid”) issued a request for proposals (“RFP”) seeking wholesale power supply bids to provide 100 percent of all-requirements service, by load zone, to supply its Industrial customer group Basic Service customers for the period February 1, 2023 through April 30, 2023 (“Industrial Service Period”).³ The RFP also includes a request for wholesale power supply bids to supply 50 percent of all-requirements service for the Southeast Massachusetts load zone for the Residential and

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² Notice of Filing and Request for Comments (Nov. 18, 2022) (“Notice”).

³ Petition for Approval of Treatment of Mystic Cost of Services Costs (Nov. 16, 2022) (“Petition”), at 2.

Commercial Customer Groups for the period May 2023 through October 2023 (“R&C Service Period”).⁴ Indicative bids are due by December 7, and final bids are due by December 14.⁵

On November 16, 2022, National Grid filed the Petition requesting approval to exclude from Basic Service bids the costs associated with the Mystic Cost of Service Agreement (“Mystic COS Costs”), commencing with the Industrial and R&C Service Periods and continuing in future Basic Service solicitations for the period through May 2024.⁶ National Grid “would include an estimate of the Mystic COS Costs as a component of its Basic Service rates and true up the actual Mystic COS Costs in the Company’s annual Basic Service reconciliation and Basic Service Adjustment Factor (‘BSAF’).”⁷ Because National Grid did not propose any changes to the Basic Service reconciliation, any reconciliation associated with the over- or under-recovery of Mystic COS Costs will be recovered from all customers, including those who have chosen a competitive supplier.⁸

On November 18, 2022, the Department issued the Notice seeking written comments from interested stakeholders regarding the Petition.⁹ RESA hereby submits its comments in response to the Notice.

⁴ Petition, at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 1.

⁷ *Id.* at 1-2

⁸ *See* Petition, Exhibit NG-1, at 10-11.

⁹ Notice, at 2.

COMMENTS

In support of its Petition, National Grid asserts that “exclusion of the Mystic COS Costs . . . is intended to maintain or even increase bidder participation . . . and eliminate risk premiums associated with Mystic COS Costs, resulting in lower bids and the likelihood of lower Basic Service rates for all Basic Service customers.”¹⁰ However, National Grid has failed to establish that its proposal will actually result in a better or even equivalent outcome for customers than requiring that wholesale suppliers include all costs in their bids to supply Basic Service. Moreover, if the Petition is approved, customers who have chosen to take their electricity supply from a competitive supplier will actually be harmed. Thus, RESA encourages the Department to refrain from allowing the electric distribution companies (“EDCs”) to deviate from the Department’s long-standing Basic Service procurement process¹¹ and to require that wholesale suppliers be required to include Mystic COS Costs in their bids.

I. PASS-THROUGH OF COSTS PLACES THE RISK ON CUSTOMERS

When restructuring began, the Department undertook an investigation into the pricing and procurement of default service.¹² As the retail competitive electric market

¹⁰ Petition, Exhibit NG-1, at 3.

¹¹ RESA acknowledges that the Department recently approved a deviation from FRS procurements for National Grid. *See* D.P.U. 22-BSF-D3 (2022). However, in that case, the Department noted that it did so, in part “[b]ased on the short duration of the proposed self-supply procurement alternative (three months), [and] the small size of the load (less than three percent of the Company’s forecasted load for the service period and less than one percent of the Company’s forecasted total annual load)” *Id.* at 15. The current Petition, however, would affect the entirety of National Grid’s load for an extended period.

¹² *See, generally*, Docket No. D.T.E. 99-60, *Investigation by the Department of Telecommunications and Energy on its own Motion into the Pricing and Procurement of Default Service Pursuant to G.L. c. 164, § 1B(d)*.

continued to evolve, the Department continued to evaluate these issues.¹³ Throughout the course of these proceedings, the Department undertook a thoughtful and considered evaluation of the various options for procuring and pricing default service. After this thorough evaluation and analysis, the Department established the process pursuant to which all EDCs were to undertake default service procurements.¹⁴ The Department should continue this practice and not make modifications to the manner in which default service is procured on an ad hoc basis.

National Grid proposes to deviate from approved procurements practices by allowing wholesale suppliers to pass-through Mystic COS Costs.¹⁵ Any time costs are passed through, the price volatility risk is borne by ratepayers. However, under the full service requirements (“FRS”) procurement approach authorized by the Department, price volatility risk is shifted to the wholesale suppliers; thus, providing consumers with price insurance for the duration of the contract.¹⁶ Because they have to bid a fixed price, the wholesale suppliers cannot seek to increase rates to customers when market conditions change. Conversely, National Grid proposes to pass those risks onto customers.¹⁷

¹³ See, generally, Docket No. D.T.E. 01-54, *Investigation by the Department of Telecommunications and Energy on its own Motion into Competitive Market Initiatives*; Docket No. D.T.E. 02-40, *Investigation by the Department of Telecommunications and Energy on its own Motion into the Provision of Default Service*; Docket No. D.T.E. 04-115, *Request for Comments on the Procurement of Default Service Power Supply for Residential and Small Commercial and Industrial Customers*.

¹⁴ See, e.g., D.T.E. 99-60-B (2001); D.T.E. 02-40-B (2003).

¹⁵ Petition, at 1.

¹⁶ Cf. Massachusetts D.P.U. 15-40, *Investigation by the Department of Public Utilities on its Own Motion into the Provision of Basic Service*, Initial Comments of Eversource Energy (Jul. 27, 2015), at 3 (“‘All-requirements’ or load following service includes, by definition, a margin for pricing and migration risks that are currently the responsibility of the supplier. A change from an ‘all-requirements’ model **would shift these risks** to [default] service customers, because the products to supply [default] service supply would be procured separately and as such would expose customers to greater market variations and price volatility.”) (emphasis added).

¹⁷ Petition, Exhibit NG-1, at 9 (recognizing that customers will bear risk of Mystic COS costs).

National Grid asserts that “Basic Service suppliers have stated that the uncertainty surrounding the Mystic COS Costs *may* impact their ability to participate in Basic Service solicitations in New England for the remainder of the term of the Mystic COS Agreement or *may* result in elevated risk premiums.”¹⁸ However, National Grid has not yet concluded its RFP. As a consequence, it cannot say with certainty that either will occur.

Moreover, there is no evidence that excluding Mystic COS Costs from Basic Service bids will actually result in better outcomes for customers. In fact, it is entirely possible that, by allowing the pass-through of costs, customers will actually pay more than if wholesale suppliers were required to include the Mystic COS Costs in their Basic Service bids.¹⁹ Conversely, under a FRS procurement that includes all costs, consumers are protected against the volatility that results from changes to market prices over time. Rather than exposing customers to this risk, RESA urges the Department to require National Grid to engage in the FRS procurement process approved by the Department and prohibit the pass-through of costs.

II. PASS-THROUGH OF COSTS WILL INCREASE DEFERRALS AND SEND EVEN MORE INACCURATE PRICE SIGNALS TO CUSTOMERS

Although National Grid is not explicitly proposing the deferral of Basic Service costs, if the Petition is approved, it will have that practical effect because “costs that are not recovered from [basic] service customers now will be recovered, with interest, from *all* customers in the future, *regardless whether* the customer received [basic] service or

¹⁸ Petition, at 4.

¹⁹ *Cf.* Petition, at 5 (“If the Mystic COS Costs remain incorporated in Basic Service bids, the RFPs *could* result in poor bidder participation or unacceptable high bids. If the Mystic COS Costs remain incorporated in Basic Service bids, the RFPs *could* result in poor bidder participation or unacceptable high bids.”) (emphasis added).

not.”²⁰ However, as the Department itself has recognized, costs associated with Basic Service “should be recovered from or refunded to the customer that caused the costs.”²¹

Deferring costs to the next Basic Service term and collecting those costs in delivery rates shift costs from Basic Service customers to all customers. As a result, customers receiving competitive supply service will be forced to bear costs to serve Basic Service customers – costs for services that they do not receive and that subsidize the EDCs’ Basic Service customers – in contravention of cost-causation principles. Furthermore, customers who chose competitive supply and who took appropriate steps to protect against the volatility of Basic Service rates by locking in prices will find that their hedging strategy was for naught as they will now have to bear those costs anyway (albeit, in their delivery rates) if the Petition is approved.

Moreover, both the Massachusetts legislature and the Department have long-recognized the need to ensure that rates are cost-based and customers receive appropriate price signals. Indeed, the Electric Restructuring Act specifically states that “competitive markets in generation should . . . provide electricity buyers and sellers *with appropriate price signals*”²² Consistent with the statutory requirement, the Department has found that:

It is essential to the development of a robust competitive market to have prices set at levels that provide customers with *appropriate price signals* regarding the costs associated with providing the service, as established by the competitive market. Default service prices that do not represent the actual cost of providing the service would inhibit the

²⁰ Docket Nos. D.T.E. 00-66, 00-67, 00-70, *Standard Offer Service Fuel Adjustments*, Letter Order (Dec. 4, 2000) (“SOSFA Order”), at 3 (emphasis in original).

²¹ D.P.U. 09-26, *Report of the Department of Public Utilities regarding the impact of the existing basic service adjustment mechanism on the competitive retail electricity market pursuant to Section 102 of the Green Communities Act, Chapter 169 of the Acts of 2008*, Report (June 1, 2009), at 6.

²² Electric Restructuring Act, § 1(g) (emphasis added).

development of a competitive generation market and would thus be detrimental to all electricity consumers.²³

In furthering this goal, the Department has relied on several guiding principles, including that “default service prices should be market based, be procured through reasonable business practices, and *take into account the costs of providing default service*, consistent with the development of robust competitive retail markets.”²⁴ In particular, the Department has held that “it is *critical* that *all* costs of providing default service be included in the retail price to provide an accurate price signal.”²⁵

Indeed,

deferring costs from the current basic service term to another term . . . would not be in the ratepayers’ best interests, would disrupt the competitive market, might result in higher basic service bid prices in the future, could shift costs to non-basic service customers, and would be contrary to Department precedent.²⁶

Specifically, such action “would not reduce the cost of basic service for customers, but instead would spread the cost recovery over a longer period of time, which would increase carrying charges and distort price signals.”²⁷

Following these principles, the Department declined to approve a 2001 Massachusetts Electric Company proposal to calculate the fixed price default service option based on a twelve month (rather than six month) weighted average cost because it would “not reduce the price for any customers, it *suppresses the market price signal* as it would otherwise be experienced by customers nearer to the time of usage; and it does so

²³ D.T.E. 99-60-A (2000), at 3 (emphasis added).

²⁴ D.T.E. 99-60-A (2000), at 3 (emphasis added).

²⁵ *Id.* at 6 (emphasis added).

²⁶ *Id.*

²⁷ See D.P.U. 14-BSF-D3-A (2014), at 10.

by simply shifting the time-period over which default service supply costs must be paid.”²⁸

Similarly, in response to a request from the distribution companies to implement a standard offer service fuel adjustment (“SOSFA”) “as a result of substantial increases in fuel costs, which ha[d] driven up the price of electric generation,”²⁹ the Department was “faced with the difficult task of balancing the burden of allowing present cost recovery against the *potentially greater harm of increasing deferrals* to be recovered in the future.”³⁰ Ultimately, the Department rejected a deferral of the cost increases associated with the SOSFA for several reasons, including because “continuing to price [default] service significantly below costs artificially impedes the development of a truly robust competitive market and the ability of competitive suppliers to develop products at prices that would attract customers.”³¹

The Department has long held that “[d]efault service is intended to be a basic service that provides customers with the appropriate incentives to turn to the competitive market for more sophisticated or advantageous service offerings.”³² As a consequence, “[a]n underlying goal of . . . default service pricing policies is to ensure that, to the extent possible, default service customers pay the full costs of providing that service.”³³ However, despite this, the EDCs still capture commodity-related (i.e., bypassable) costs in delivery (i.e., non-bypassable) rates. Although the Department has undertaken efforts

²⁸ D.P.U. 14-BSF-D3-A (2014), at 10 (emphasis added).

²⁹ SOSFA Order, at 1.

³⁰ *Id.* at 2 (emphasis added).

³¹ *Id.* at 4.

³² D.T.E. 99-60-A (2000), at 2.

³³ D.T.E. 99-60-C (2000), at 7.

in the past to appropriately allocate costs between the bypassable and non-bypassable portion of rates,³⁴ certain Basic Service related costs are still captured in the EDCs' non-bypassable rates.³⁵ This creates inaccurate price signals and fails to provide customers with a full understanding of the value offered by the competitive market.

As the Department has recognized, “[c]ustomers will inevitably compare the price and terms of default service to other generation service options made available to them by competitive suppliers.”³⁶ Consequently, “[d]efault service may serve as a barrier to competition as long as competitive suppliers must recover all of their costs through the prices they charge customers, while distribution companies are able to recover some of their default service-related costs through their distribution base rates.”³⁷ Hence, “the default service rate will have a strong influence on suppliers’ interest in, and approach to, competing to supply default service, and may affect suppliers’ interest in providing retail service.”³⁸ Thus, the Department has long embraced “the principle that default service prices should include *all* costs of providing default service in order to allow competitive suppliers a fair and reasonable opportunity to compete for default service customers.”³⁹

³⁴ See, generally, Docket D.T.E. 99-60, *Investigation by the Department of Telecommunications and Energy on its Own Motion into the Pricing and Procurement of Default Service Pursuant to G.L. c. 164, § 1B(d)*; Docket D.T.E. 02-40, *Investigation by the Department of Telecommunications and Energy on its Own Motion into the Provision of Default Service*; Docket DTE 03-88, *Investigation by the Department of Telecommunications and Energy on its Own Motion, Pursuant to G.L. c. 164 §§ 1A(a), 1B(d), 94; and 220 C.M.R. § 11.04, into the Costs that Should Be Included in Default Service Rates*.

³⁵ See, e.g., Docket D.P.U. 21-01, *Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for approval of their 2020 electric reconciliation filing effective March 1, 2021, pursuant to G.L. c. 164, § 1A(a) and 220 CMR 11.03(4)(e)*, Annual Retail Rate Filing (Jan. 15, 2021), Exhibit MR-1, at 4-5 (noting that, in reconciling Basic Service revenue and Basic Service expense, “any excess or deficiency is credited to or recovered from all the Company’s retail *delivery service customers*, with interest . . .”) (emphasis added).

³⁶ *Id.*

³⁷ D.T.E. 02-40-B (2003), at 15.

³⁸ D.T.E. 99-60 (1999), at 1.

³⁹ D.T.E. 02-40-B (2003), at 14 (emphasis added).

Under the FRS procurement approach approved by the Department, a customer is presented with an all-in price against which it can compare offers from competitive retail providers and make decisions about energy usage. However, as long as costs can be passed through, such an option is not available to the customer because the actual cost of serving a customer for a certain period of time is never reflected in Basic Service rates⁴⁰ in direct contravention of the Department’s Basic Service pricing goals.⁴¹ As a consequence, customers are left to make decisions about the value of competitive supply offers based on inaccurate price signals. Moreover, an improper allocation of basic service related costs to non-bypassable rates is patently unfair to customers who choose competitive supply because they are paying duplicate costs and subsidizing the supply costs of those customers who choose to stay with the EDC supply option.

Failing to reflect the full cost of Basic Service by allowing the EDCs to reconcile and collect over- and under-recoveries of Basic Service costs in delivery rates also presents a constant threat to, and undermines, the Commonwealth’s conservation and energy efficiency goals. Only when customers know the true cost of their power supply can they make appropriate decisions regarding demand response and energy efficiency modifications to better manage their electricity consumption and costs. In contrast, if

⁴⁰ Petition, Exhibit NG-1, at 10-11 (“To the extent that the Basic Service revenue billed from customers is more or less than the actual cost of procurement, the deferred balance is credited to or recovered from **all** customers through its BSAF”) (emphasis added); see also Docket D.P.U. 21-01, *Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for approval of their 2020 electric reconciliation filing effective March 1, 2021, pursuant to G.L. c. 164, § 1A(a) and 220 CMR 11.03(4)(e)*, Annual Retail Rate Filing (Jan. 15, 2021), Exhibit MR-1, at 4-5 (noting that, in reconciling Basic Service revenue and Basic Service expense, “any excess or deficiency is credited to or recovered from all the Company’s retail **delivery service customers**, with interest”) (emphasis added).

⁴¹ D.T.E. 99-60-C (2000), at 7 (“An underlying goal of the Department’s default service pricing policies is to ensure that, to the extent possible, default service customers pay **the full costs** of providing that service.”) (emphasis added).

customers do not know the true cost of their power supply, they are discouraged from adopting new solutions to meet their energy needs.

This issue is exacerbated when the risks associated with market price fluctuations that are usually borne by wholesale suppliers are passed on to customers. If the Petition is approved, National Grid's customers will pay Basic Service rates that are based on an estimate.⁴² The difference between that estimate and actual costs, once known, will be charged or credited to all customers in delivery rates after the period for which those costs were incurred.⁴³ This reconciliation process means that Basic Service rates, at any point in time, are higher or lower than the actual cost for that period. As a result, although customers are told that they are purchasing energy at a fixed price, that is not really the case. All customers, whether or not they stay on Basic Service, are actually charged a rate that appears fixed but has a hidden variable component that is added to the delivery rates during the subsequent reconciliation period. This reconciliation occurs in addition to the need to adjust rates for changes in their actual costs for the coming period.

Moreover, because it is impossible to accurately estimate the Mystic COS Costs,⁴⁴ the chances that an over- or under-recovery will occur is exponentially greater. This uncertainty is increased significantly when predictions are based on historical information that does not take into account current market conditions. In fact, it is extremely likely that if the Petition is approved, the Basic Service rates will not capture all of the Mystic COS Costs. National Grid plans to estimate Mystic COS Costs based on historical

⁴² See Petition, Exhibit NG-1, at 11-12.

⁴³ *Id.* at 11 (“The Company reconciles its total cost of purchased power for Basic Service supply against its total Basic Service revenue, and the excess or deficiency is refunded to, or collected from, customers on a per kWh basis over the following 12-month period beginning March 1, with interest, through a BSAF.”).

⁴⁴ Petition, at 4 (“New England suppliers have raised concerns about their ability to accurately estimate the Mystic COS Costs to include in Basic Service bids.”).

costs.⁴⁵ However, as National Grid pointed out, “suppliers have stated that costs for three winter months could reach \$1 billion, under certain circumstances.”⁴⁶ This is exponentially higher than historic costs.⁴⁷ Thus, given current market conditions, relying on historical costs will almost certainly lead to significant under-recoveries.⁴⁸ These significant under-recoveries, however, will *never* be reflected in customer’s Basic Service rates because they will be reconciled in delivery rates.⁴⁹ Conversely, competitive retail suppliers’ pricing offers will reflect the increased Mystic COS Costs. As a result, customers will not be able to accurately compare the value of pricing offers from the competitive retail market with the Basic Service rate. Conversely, these out-of-period reconciliations will be minimized by require National Grid to entering into contracts with third-party wholesale suppliers to provide FRS that includes all costs because those suppliers accept the risk of market price fluctuations. Consequently, customers are presented with a more accurate price for their power.

Moreover, given the volatility and anticipated significant increases in Mystic COS Costs,⁵⁰ National Grid has failed to explain how allowing the pass-through of those costs

⁴⁵ Petition, Exhibit NG-1, at 10 (“At this time, the Company would most likely use historical Mystic COS Costs, unitized as dollar per megawatt-hour, as a proxy of the Mystic COS Costs to be included in the Basic Service rates for the Industrial Service Period.”).

⁴⁶ Petition, Exhibit NG-1, at 7.

⁴⁷ Petition, Exhibit NG-1, at 7 (reflecting that, for June-September 2022, the Mystic COS Costs ranged from \$3 million to \$48 million).

⁴⁸ *Id.*

⁴⁹ *Id.* at 10-11 (“To the extent that the Basic Service revenue billed from customers is more or less than the actual cost of procurement, the deferred balance is credited to or recovered from *all* customers through its BSAF”) (emphasis added)

⁵⁰ *Id.* at 7.

will actually result in a better outcome for customers.⁵¹ In fact, the actual costs to consumers could be substantially higher than the costs that would be incurred if wholesale suppliers are required to include the Mystic COS Costs in their Basic Service bids⁵² – a risk that will fall on all customers if the Petition is approved.⁵³

Prior to restructuring, the EDCs' customers bore the risk of uneconomic decisions, which resulted in billions of dollars in stranded costs.⁵⁴ As a consequence, one of the primary rationales for the restructuring of the electric industry was to remove the risk of uneconomic investment from ratepayers and place it on the shareholders of market players. If costs are passed through to customers, the costs associated with inaccurate estimates are placed back onto ratepayers.⁵⁵ This problem does not occur with the FRS approach that includes all costs because the risks associated with market price fluctuations are managed by the wholesale FRS suppliers through the bidding process. As a consequence, if the Petition is approved, it is difficult to see how Basic Service customers will come out ahead, relative to the existing FRS procurement structure.

CONCLUSION

For all the foregoing reasons, RESA encourages the Department to require the EDCs to engage in the FRS procurement process approved by the Department by

⁵¹ Cf. Petition, at 5 (“If the Mystic COS Costs remain incorporated in Basic Service bids, the RFPs *could* result in poor bidder participation or unacceptable high bids. If the Mystic COS Costs remain incorporated in Basic Service bids, the RFPs *could* result in poor bidder participation or unacceptable high bids.”) (emphasis added).

⁵² Cf. Petition, at 5.

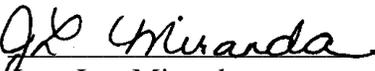
⁵³ Petition, Exhibit NG-1, at 9 (recognizing that customers will bear risk of Mystic COS costs).

⁵⁴ See, e.g., Synapse Energy Economics, Inc., Massachusetts Electric Utility Stranded Costs, Don't Give Away the Store Without Checking Out the Merchandise, https://www.synapse-energy.com/sites/default/files/SynapseReport.1997-11.UCS_.Massachusetts-Electric-Utility-Stranded-Costs.97-U03.pdf (Nov. 4, 1997) (“Estimates of utility stranded costs run as high as \$12 to \$16 billion . . . and comprise as much as 38 percent of current prices.”) (last visited Nov. 30, 2022).

⁵⁵ Petition, Exhibit NG-1, at 9 (recognizing that customers will bear risk of Mystic COS costs).

requiring that all costs be included in wholesale supplier bids to avoid masking accurate price signals to consumers, shifting the time-period over which the costs must be paid, and forcing all customers to bear those costs regardless of whether those customers received Basic Service.

Respectfully submitted,
RETAIL ENERGY SUPPLY
ASSOCIATION

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Certificate of Service

I certify that I have this day served the foregoing document in the above-captioned proceeding in accordance with the requirements of 220 C.M.R. § 1.05.



Joey Lee Miranda

Dated: November 30, 2022