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MEMORANDUM

TO: Gas and Electric Utility Companies

FROM: Laura S. Olton, General Counsel
Elizabeth A. Cellucci, Director, External Affairs

DATE: November 6, 2008

RE: Changes in LIHEAP eligibility and implications for gas and electric customers

The Massachusetts Department of Housing and Community Development (“DHCD”) has announced that effective immediately income eligibility for the Low Income Heating and Energy Assistance Program (“LIHEAP”) has changed from 200 percent of the federal poverty level to 60 percent of the state median income. DHCD has posted the revised maximum income levels on its website at <http://www.mass.gov/Ehed/docs/dhcd/cd/liheap/liheapincomeeligibilitychart2010.pdf>. Since sixty percent of the state median income exceeds 200 percent of the federal poverty level, the number of persons qualifying for LIHEAP and other benefits tied to LIHEAP eligibility will expand this year. The change in the income-eligibility level for LIHEAP has several implications for the statutes and regulations governing the low-income programs of the gas and electric companies regulated by the Department of Public Utilities (“Department”).

Electric Discount Rate

Eligibility for the electric discount rate for low-income customers will automatically increase to 60 percent of the state median income for FY09, since G.L. c. 164, § 1F (4)(i) provides that eligibility for the electric discount rate is tied to eligibility for LIHEAP.¹ Therefore, electric

¹ Specifically, G.L. c. 164, § 1F (4)(i) states that eligibility for the electric discount rate is based upon verification of eligibility for LIHEAP or other public benefit for which eligibility does not exceed 200 percent of the federal poverty level based on a household’s gross income. Section 1F also provides that in a program year in which maximum eligibility for LIHEAP exceeds 200 percent of the federal poverty level, a

companies must begin offering and providing the low-income discount rate to electric customers whose incomes are within 60 percent of the state median income.²

Protection from Termination of Service

Department regulations protect customers from service termination when a financial hardship exists and one of three criteria is met: someone in the home has a serious illness; an infant lives in the home; or the service is necessary for operation of the heating system and it is between November 15 and March 15. 220 C.M.R. § 25.03(1). Department regulations provide that a “financial hardship” exists when a customer is unable to pay an overdue bill and such customer meets income-eligibility requirements for LIHEAP. 220 C.M.R. § 25.01(2). Consequently, customers whose incomes are within 60 percent of the state median income are now eligible for protection pursuant to 220 C.M.R. § 25.03(1) as they meet the definition of “financial hardship.”

Application of Chapter 140 of the Acts of 2005

Section 17 (a) of Chapter 140 of the Acts of 2005 (“Chapter 140”) provides that each electric and gas company must offer an arrearage management program (“AMP”) to eligible low-income customers, as defined under G.L. c. 164. Under Chapter 140, a “low-income” customer is one who qualifies for any means-tested public benefit, or is eligible for LIHEAP. Therefore, for purposes of Chapter 140 and the administration of AMPs, an eligible, low-income customer now includes a customer whose income is within 60 percent of the state median income. Gas and electric companies should actively solicit and enroll these newly eligible customers in AMPs.

Section 17(b) of Chapter 140 states that gas and electric utility companies must initially offer a low-income customer who has an arrearage, but whose utility service has not yet been terminated, a payment plan of not less than four months including the initial down payment of 25 per cent of the balance owed, and the remaining repayment balance amounts shall be divided equally. As stated above, a “low-income” customer for purposes of Chapter 140 is one who is eligible for LIHEAP. Therefore, gas and electric companies must offer the payment arrangement specified in Section 17(b) to customers whose incomes are within 60 percent of the state median income.³

household that is income eligible under LIHEAP shall be eligible for the low-income electric discount.

² Eligibility for the low income gas discount rate, established in Department regulations, is set at 200 percent of the federal poverty level. 220 C.M.R.14.03(2A). The Department is considering changing eligibility for the gas discount rate to LIHEAP eligibility for the purpose of consistency with eligibility for the electric discount rate.

³ Note that pursuant to the definition of “payment plan” in 220 C.M.R. § 25.01, companies are required to offer a deferred payment arrangement extending over a

Should you have questions regarding the change in LIHEAP eligibility and its effect upon regulations, programs, or benefits within the Department's jurisdiction, please contact Elizabeth Cellucci at 617-305-3610.

period of at least four months to all customers regardless of income.