



# CAMBRIDGE CONSUMERS' COUNCIL

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City Of Cambridge

Paul J. Schlaver  
Executive Director

To: Robert W. Healy, City Manager  
From: Paul Schlaver   
Date: October 6, 1997

RE: Council Order #012, dated 9/15/97 RE: Report on New Legislation to Restructure  
The Electricity Generation Industry in  
Massachusetts

This report was delayed until now because I was aware that a major new bill on the above subject matter was going to be filed in the State Legislature on Friday, October 3<sup>rd</sup> by Representative Daniel Bosley, Co-Chair of the Government Regulations (along with Senator Michael Morrissey). While the Council order specifically referenced Senator Morrissey's bill, I knew Rep. Bosley's bill was going to be very comprehensive and was bound to become the centerpiece for discussion on debate from here on.

The Bosley bill is 112 pages long and I obtained a copy at the 11:00AM Friday press conference held to announce the bill. Fortunately a four page summary of the bill was also given out. I have attached a copy of that summary but have the full bill for you or anyone one you so designate to study. I have just begun to give it a careful review.

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The restructuring of the Electricity Industry is a huge undertaking. The process has become a full time focus for countless people in the industry, state government agencies such as the DPU and Attorney General's Regulated Industries Division, companies that can benefit from this process and some consumer advocates. I have only been able to devote a very limited amount of time to the issue. I have reported to you on two occasions early this year on this matter but mainly spoke of the efforts to obtain public input and to establish a means to offer consumer information and education about what is about to occur.

I will now make a modest attempt to offer more of an analysis of the current state of the restructuring process and make some recommendations for you and the City Council to consider. I have included some attachments to let some of the major players explain their efforts themselves:

- a) Summary of the **Bosley Bill** and the 1<sup>st</sup> three pages of the bill stating the operating principles and rationale for it.
- b) The Sept. '96 press release and summary of Harshbarger's "Consumer First" restructuring plan along with some questions and answers to explain it.

- c) The July DPU Newsletter explaining restructuring & choice with a full description of the "unbundled" electricity bill format that has now begun.
- d) The principles presented by "*Consumers for Affordable Clean Electricity*", The MASSPIRG lead group.
- e) The March of 1996 testimony of Jerrold Oppenheim of the National Consumer Law Center as presented to the special legislative committee that triggered the Morrissey bill and now the Bosley bill.

I would like to just focus my report to you on two major areas of this overall debate. First of all, I will comment on the *Municipal Issues*. It is clear to me that the efforts of the Mass. Municipal Association and other forces have been heard loud and clear by Rep. Bosley. His bill calls for key efforts to lessen any negative impact for the City of Cambridge and the other municipalities at risk.

- a) The exemption for property used in the manufacturing of electricity would be eliminated by his bill.
- b) If a municipality experienced a generating plant closing, a 13 year payment in lieu of taxes agreement would be mandated.
- c) A Municipal Property Tax Assistance Fund would be established and in effect at least five years to assist communities suffering a hardship due to tax revenue losses.
- d) Aggregation by municipalities to purchase electricity for the benefit of its citizens would allowed and encouraged.
- e) Cities and towns could purchase streets and fixtures rather than only be allowed to lease them.

It certainly appears that as to "municipal issues" the Bosley Bill could be a home run.

As to impact on the residential ratepayers and *Consumer Protection Issues*, the Bosley bill seems strong. It hold to the position that a 15% rate reduction can be guaranteed instead of the mandated 10% that the Attorney General is proposing. Both Bosley and Harshbarger require a "standard service" or "standard offer" for the customers (I believe there will be many, many in this category) that simply do not choose another supplier of electricity because they don't understand or simply do not want to cope with the "choice" option restructuring brings them. We all know elderly consumers that still have never changed long distance telephone carriers (and still may be leasing their *rotary-dial* telephone!).

Bosley's bill calls for the following additional consumer protections:

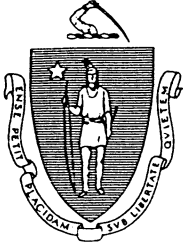
- a) Mandating the same level of quality and reliability of service from the new suppliers;
- b) New resources would be put in place to augment consumer education programs;
- c) A newly constituted DPU would add two members to the commission with consumer protection and advocacy backgrounds;
- d) Programs would be established for low-income and other residents in need would get discounted rates;
- e) The "choice" option would not start until March 1, 1998 under the Bosley plan rather that the Jan. 1<sup>st</sup> projected start date now on the drawing boards.

I am very pleased that the State Legislature is choosing to “tackle” this massive restructuring issue so thoroughly. The Attorney General’s Office can only go so far in their direct negotiations with the utility companies. It is be simplistic to say the AG’s Office gave away the store by allowing recovery for stranded from the ratepayers rather than just pushing it all on the stockholders. Many of those “bad” investments were encouraged or required by the government over the years. It is possible, thought that the “threat” of legislatively imposed tougher solutions will allow for a “sweetening of the pot” in negotiated deals with various electric companies. While it is expected that there will continue to be name calling and bashing of the AG, now the focus will probably switch to Bosley bashing. But I hope that this bill will only enrich the debate and improve the outcome. The Bosley bill sets up a sub-division in the new version of the DPU to carefully evaluate the stranded cost allocation request of each electric company. Therefore, I don’t think it is my place (or do I have the full understanding of the complexities) to criticize one plan over another.

I would like to conclude with some general recommendations, though. The appearance of the Bosley bill and in light of its thoroughness and attempt to tackle virtually all the issues involved should prompt the city to:

- 1) Support an implementation delay until at least March 1<sup>st</sup>.
- 2) Support the call for aggregation of residential customers allowed by their status as residents of Cambridge to enhance their “buying power” if they want to plunge into the world of choice of electric suppliers.
- 3) Support the further call for consumer protections and educational efforts that should come for a strong state authority such as the DPU or in its new formulation as the **Department of Regulated Industries** with various sub-divisions as Bosley calls for.
- 4) Directly comment on the specifics of municipal issues and solutions posed in the Bosley bill to maximize the benefit and minimize the harm to the city;
- 4) Request, on the local level, that Cambridge Electric Company, develops a consumer information and education plan for its customers that goes beyond the current DPU required efforts so that our citizens have multiple opportunities to become informed of the restructuring realities and their choices. This educational program should include the use of Cable TV, public meetings, an informational telephone line and also special training/informational meetings for the city employees or other local agency employees that provide direct services to consumers in such a manner that they may have to address questions, complaints or inquiries from their clients or the general public about electricity restructuring. This educational program should be developed in consultation with the Cambridge Consumer Advisory Commission and the staff of the Consumers’ Council.

The Bosley Bill and the Morrissey Bill are both in the government Regulations Committee and Bosley said at the press conference that he will be working with his co-chair, Senator Morrissey to reconcile the two bills as much as possible. I am sure any input that the City of Cambridge can offer would be welcome by that committee.



# *The Commonwealth of Massachusetts*

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## **AN ACT RELATIVE TO RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY IN THE COMMONWEALTH, REGULATING THE PROVISION OF ELECTRICITY AND OTHER SERVICES, & PROMOTING ENHANCED CONSUMER PROTECTIONS THEREIN.**

This draft legislative proposal, crafted by Representative Daniel Bosley, the House Chairman of the Joint Committee on Government Regulations, after a comprehensive study of all the issues comprising the restructuring of the electric utility industry, would establish a framework around which complete restructuring of the electric utility industry in the Commonwealth of Massachusetts would be accomplished while maintaining a healthy balance of emphasis amongst all interested parties, including all classes of residential ratepayers, labor, municipalities, emerging technologies of all degrees, and environmentalists, as well as the utilities themselves. As the Commonwealth progresses down the road of introducing competitive forces within various sectors of the electricity industry, this draft proposal would provide legislative guidance and standards for state agencies to follow as a supplement to those areas where their regulatory power is lacking.

Key provisions of this legislation would include the following:

### **1) Retail Access and Electricity Rates.**

- a. **Retail access** to the electricity market would commence on **March 1, 1998**.
- b. Each electricity distribution company, as of March 1, 1998, would be required to offer a **standard service transition rate** to those customers within its service territory who choose not to purchase power from a non-utility affiliated generation company. This standard service rate as of March 1, 1998, would comprise a **15 percent rate reduction** for all customers who purchase power under the standard service package. In order to flatten the current rate disparity amongst the various companies, on and by March 1, 2001, the standard service rate offered by a distribution company could be no higher than 115 percent of the statewide average rate as of March 2, 1998. This service package would be offered for a transition period of seven years.
- c. Although presently accomplished through regulation, customers bills would be **statutorily required to be unbundled** beginning on January 1, 1998, to reflect the separation of costs for generation, distribution, and transmission functions of the various newly created companies.

- d. In attempting to work with distribution companies to reduce their rates as much as possible, the Department of Regulated Industries (formerly the DPU) would be authorized to establish **caps** as to the overall proportion such **distribution costs** could be relative to the overall electricity price.

## 2) Reconfigure the Department of Public Utilities and the Division of Energy Resources.

- a. The DPU would be **renamed the "Department of Regulated Industries" (DRI)** to reflect the true status of companies under its purview. The membership of the DRI commission would still be appointed by, and serve coterminous with, the governor, but it would be **expanded to five members** (from its current size of three), with one member required to possess a background in electricity and energy issues, another a background in telecommunications issues, and two would have a background in consumer protection and advocacy. Although the relatively low-level of compensation has served in the past as a deterrent for qualified candidates to partake in this form of public service, in order to address this perceived shortfall the legislation would require the governor to commence a study of comparable positions in other states and the compensation so paid and deliver any recommendations to the General Court in the form of legislation to adjust the salaries.
- b. The legislation would create several **new entities** within the DRI:
- (i) a **Division of Electricity Consumer Assistance** to implement and enforce regulations related to enhanced consumer protections;
  - (ii) an **Office of Small Business Advocate** to represent small commercial and industrial users before the DRI;
  - (iii) a **Transmission Oversight Board** to monitor the operations of any independent systems operator formed or approved under federal law;
  - (iv) a **Board of Electricity Transition Costs** to review and determine the types and amounts of transition costs (so called stranded investments) electric companies would be allowed to collect
- c. The **Division of Energy Resources** would engage in expanded consumer education programs, assist municipalities and other public bodies which seek to aggregate demand for electricity, and develop extensive environmental and energy efficiency standards for all sectors of the electric industry, including renewables.

## 3) Municipal Issues.

- a. The legislation would **remove the exemption for property used in the manufacture of generation of electricity** for manufacturing corporations, except property entitled to a pollution control abatement or a cogeneration facility with generation capacity less than 30MW and those which have the benefit of the manufacturing exemption as of January 1, 1997.
- b. In a community in which the plant property has been devalued for property tax purposes as a result of restructuring or the generation plant is closed, the applicable electric, generation, or distribution company would be required to enter into a **payment in lieu of taxes agreement** to offset any reduction of property tax monies paid to the municipality, and the PILOT agreement would remain in place for **13 years**.

- c. In order to assist communities which experience undue hardship as from tax revenue losses as a result of restructuring, the legislation would establish the **Municipal Property Tax Assistance Fund**, comprising of revenues generated by a **one-half of one mill charge per kilowatt-hour** paid by all ratepayers except those served by municipal lighting plants. The Fund would **expire after five years**, unless there is an affirmative determination to maintain it at that level or with an increased charge for a longer period of time.
- d. Individual municipalities and groups of municipalities would be authorized to **aggregate electric demand** for the benefit of its citizens.
- e. **Municipal lighting plants** would be **exempt from competition** unless they choose to compete outside their service territories.
- f. The legislation would contain language intended to protect the **Town of Plymouth** for up to **15 years** through a **PILOT agreement** with the operator of the Pilgrim nuclear plant.
- g. Cities and towns would have an opportunity to **purchase street lights and fixtures** under certain circumstances.
- h. Municipalities which currently host generation facilities which lose more than 50% of their value after the implementation of this act could apply for status as an **economic target area** as a means of promoting local economic development.

#### 4) Transition Costs Recovery.

- a. **Divestiture** of generation facilities by an electric company would **not be mandated**. But a company would be afforded a reasonable opportunity to recover its transition costs (those investments and assets which have been referred to as "stranded") through a nonbypassable transition charge collected by the distribution company only if it divests of its generation plants, completes a plan to allow for retail competition for all its customers, fully implements all required mitigation of its transition costs, and complies with the required 15% rate reduction as of March 1, 1998.
- b. The five-member **Board of Electricity Transition Costs** would be authorized to **identify and determine those costs and categories of costs** for generation-related assets, investments, and obligations which may be **allowed to be recovered** through the transition charge.
- c. **Securitization** through MDFA would be made available only if a company has fully mitigated its transition costs, including divestiture of its generation facilities, substantial savings would result from securitization, all such savings would inure to the benefit of ratepayers, and there is a specified order of preference for use of the bond proceeds to reduce first those costs which have the greatest impact on savings. For non-divesting companies, **refinancing** of certain obligations and costs would be allowed through HEFA with the goal of reducing costs to the ratepayers.

## 5) Consumer Protections.

- a. The **quality and reliability of service** and service response would be required to be the same as or better than existing service standards.
- b. The **Division of Energy Resources** would be given more expansive tools to augment and improve **consumer education** programs designed to keep consumers abreast of on-going changes in the restructured economy.
- c. The reconfigured DRI commission would be required to have two members with consumer protection and advocacy backgrounds, and the Board of Electricity Transition Costs would be required to have some members who possess a consumer advocacy and finance background.
- d. The legislation would fund **demand-side management programs** for at least three years, with a mandatory review of such programs to determine their effectiveness and need in a competitive market place.
- e. The legislation would establish enhanced programs for **low-income and other residents** in need through **discounted rates**.

## 6) Labor Protections.

- a. In the course of the DRI's implementing **performance based rates** in the future for **distribution functions**, **labor would be protected from being used to decrease such costs**, and distribution companies would be **required** to establish and maintain **staffing levels** to ensure reliable service.
- b. Certain employees would be **grandfathered from renewed licensure** which could occur from disruptions in generation facilities' operations as a result of divestiture.
- c. For any layoffs caused by the restructuring of the industry, employees would be **eligible for**, in addition to benefits accruing as a result of collective bargaining agreements, **unemployment benefits and health insurance** as allowed under the **plant closing statute**.

## 7) Environmental Issues.

- a. The **energy facilities siting statute** would be **reformed** to remove requirements for determination of need and best-cost and to expedite certain aspects of the siting process; however, environmental protection responsibilities in the siting of future generation facilities would not be diminished.
- b. The **Massachusetts Renewable Energy Fund** would be created, consisting of monies derived from a charge per kilowatt-hour each consumer would be required to pay as part of the rate, to establish and foster renewable energy projects in the Commonwealth.
- c. Stringent **energy efficiency** requirements and **emissions standards** for generation facilities would be developed.

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INDUSTRY IN THE COMMONWEALTH, REGULATING THE PROVISION OF  
ELECTRICITY AND OTHER SERVICES, AND PROMOTING ENHANCED  
CONSUMER PROTECTIONS THEREIN.**

**SECTION 1.** It is hereby found and declared that:

(a) Electricity service is essential to the health and well-being of all residents of the commonwealth, to public safety, and to orderly and sustainable economic development, and affordable electric service should be available to all customers on reasonable terms and conditions; and that

(b) The interest of ratepayers and the commonwealth of Massachusetts as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which retail electricity service is provided principally by public utility electric corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to a framework under which competition would be allowed in the supply of electric power and customers would be allowed to have the right to choose their supplier of electric power; and that

(c) As a result of the existing regulatory system, residential and commercial customers in Massachusetts presently pay some of the highest electricity rates in the United States; and that

(d) These extraordinarily high electricity rates have created significant adverse effects on residents' pocketbooks and wallets and businesses' ability to compete in regional, national, and international markets; and that

(e) Within the commonwealth itself, the disparity in residential electricity prices from region to region and the different service areas can vary by some forty percent; and that

(f) Competition in the electric generation market will encourage innovation, efficiency, and improved service from all market participants, and will permit the reduction of costly regulatory oversight; and that

(g) Competitive markets in generation should (i) provide electricity suppliers with the incentive to operate efficiently, (ii) open markets for new and improved technologies, (iii) provide electricity buyers and sellers with appropriate price signals, and (iv) improve public confidence in the electric utility industry; and that

(h) Since reliable electric service is of utmost importance to the safety, health, and welfare of the commonwealth's citizens and economy, electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid; and that

(i) It is vital that sufficient supplies of electric generation will be available to maintain the reliable service to the citizens and businesses of the commonwealth; and that

(j) The department of regulated industries should ensure that universal service and energy conservation policies, activities, and services are appropriately funded and available throughout the commonwealth and that funding is sufficient to meet the need therefor; and that

(k) Long-term reductions can be achieved most effectively by increasing competition and enabling broad consumer choice in generation service, thereby allowing market forces to play the principal role in determining the suppliers of generation for all customers; and that

(l) The primary elements of a more competitive electricity market will be customer choice, preservation of consumer protections, and full and fair competition in generation; and that

(m) The interests of consumers can best be served by an expedient and orderly transition from regulation to competition in the generation sector, in order to bring to consumers the benefits of competition as quickly as possible, with the unbundling of prices and services and the functional separation of generation services from transmission and distribution services; and that

(n) With the restructuring of the existing electricity system, it should be the policy of the commonwealth of Massachusetts to ensure that electricity bills are affordable; and that

(o) The commonwealth of Massachusetts should enter into a compact with the other New England states and New York State, which should require the publicly- and investor-owned electricity utilities located in those states that sell energy to retail customers in Massachusetts to adhere to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems; and that

(p) Since reliable electricity service depends on conscientious inspection and maintenance of transmission and distribution systems, to continue and enhance the reliability of the delivery of electricity, the independent system operator and the department of regulated industries should set stringent and comprehensive inspection, maintenance, repair, and replacement standards; and that

(q) The primary elements of a more competitive electricity market will be customer choice, preservation and augmentation of consumer protections, and enhanced environmental protection goals; and that

(r) Since the transition to expanded customer choice and competitive markets can produce hardships for employees who have dedicated their working lives to utility employment, it is preferable that any impending reductions in the utility work force directly caused by electricity restructuring be accomplished through offers of voluntary severance, retraining, early retirement, outplacement, and related benefits; and that

(s) The transition to a competitive generation market should be orderly, protect electric system reliability, provide the investors in electricity corporations with a reasonable opportunity to recover costs associated with generation-related assets and obligations, based on prudent decisions, only to the extent approved by the department of regulated industries as allowed pursuant to the provisions of this act, and be completed as expeditiously as possible; and that

(t) Electricity corporations should be afforded, to the extent allowed pursuant to the provisions of this act, an opportunity to recover, over a reasonable transition period, net non-mitigable, stranded investments associated with commitments previously incurred pursuant to their legal obligations to provide electricity service, only after such electric companies take all practicable measures to mitigate stranded investments during the transition to a competitive market; and that

(u) Such charges associated with the transition should be collected over a specific period of time on a non-bypassable basis and in a manner that does not result in an increase in rates to customers of electricity corporations; and that

(v) Financial mechanisms to allow an electricity corporation, whether or not it divests itself of its generation assets, to monetize either a portion of its transition charge or its existing debt obligations so that customers will receive rate reductions through the distribution companies of no less than 15 percent beginning on March 1, 1998; and that

(w) It is the intent of the Great and General Court that every customer in the commonwealth shall enjoy a rate for electricity services by and on March 1, 2001, which shall be no higher than 115 percent of the statewide base rate in effect on March 2, 1998.

Therefore, it is found that it is in the public interest of the commonwealth of Massachusetts to promote the prosperity and general welfare of its citizens, a public purpose for which public money may be expended, by restructuring the electricity industry in the commonwealth to foster competition and promote reduced electricity rates through the enactment of the following statutory changes.



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**NEWS RELEASE**

FOR IMMEDIATE RELEASE  
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SEPTEMBER 12, 1996  
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**HARSHBARGER UNVEILS ELECTRIC RESTRUCTURING PLAN:  
MASSACHUSETTS ELECTRIC IS FIRST UTILITY TO SIGN ON**

**All Customers Guaranteed To Save 10 Percent For Total Savings Of At Least \$3 Billion**

Attorney General Scott Harshbarger today unveiled his plan to restructure the electric utility industry in Massachusetts, and announced that Massachusetts Electric Company, the largest retail electric company in the state and its affiliate, New England Power Company, have become the first to sign on to the groundbreaking "Consumers First" initiative.

The plan would allow all Massachusetts residential and business consumers of the state's investor-owned utilities to choose their supplier of electricity on Jan. 1, 1998; would require all customers be given an option that guarantees a minimum of 10 percent savings on their monthly bills; and would create a national model for reducing air pollution from older power plants.

Harshbarger's plan will result in statewide consumer savings of at least \$3 billion over the first seven years of the transition to a competitive electric industry, if it is implemented statewide on behalf of 2.5 million investor-owned utility customers in Massachusetts.

"This ambitious plan is the first in the country to guarantee savings for all customers during the transition to a competitive industry," Harshbarger said. "In a restructured market, consumers will no longer be forced to buy all of their electric service from a single regional monopoly. Instead, they will buy the power they need from a number of competing companies, in much the same way they now choose among long-distance telephone carriers."

Harshbarger announced that Massachusetts Electric, which serves 950,000 consumers in 150 communities, has become the first of seven investor-owned utilities in the state to reach an agreement in principle to enact his "Consumers First" restructuring plan.

(more)

"The underlying motive for industry restructuring has always been lower prices for customers," said John W. Rowe, president and chief executive officer of New England Electric System (NEES), parent of Massachusetts Electric and New England Power. "The Attorney General has honed in on this goal and hammered out a plan that truly has consumer interests at heart."

The agreement in principle reached with Massachusetts Electric would save an average residential customer of the company at least \$6 off their monthly bill. Massachusetts Electric's service area stretches from Newburyport to Quincy to West Stockbridge, and includes homeowners and businesses in Worcester, Lawrence, Salem, Everett, Lynn, Northampton and Gloucester.

Massachusetts Electric's agreement to implement "Consumers First" would result in its base rates being frozen until retail choice begins. Statewide, Harshbarger's restructuring plan would encourage all utilities to maintain current service levels once competition starts, by requiring them to meet specific reliability and consumer satisfaction standards or incur penalties of up to \$2 million.

Harshbarger and his staff intend to present the "Consumers First" plan to other members of the electric industry in the next few weeks in an effort to reach a broad consensus before formally filing the initiative with the Massachusetts Department of Public Utilities (DPU) on Oct. 1.

"This plan should be acceptable to all interested parties, including utilities and the DPU," Harshbarger said. "Utility investors will have a reasonable opportunity to recoup their past investments. There will be progress in reducing air pollution and encouraging energy efficiency. There will be programs to make power more affordable for low income consumers. Everyone wins."

The Conservation Law Foundation, the Massachusetts High Technology Council, the Northeast Energy Efficiency Council, and independent power producers, American National Power, American Tractabel and the New England Energy & Commerce Association, also support Harshbarger's plan. It must be approved by the DPU and the Federal Energy Regulatory Commission. Any necessary enabling legislation will be sought.

"We will work closely with the Legislature to open the electricity industry in Massachusetts to competition," Harshbarger said.

State Sen. John D. O'Brien, Senate chair of the Legislature's Special Joint Committee on Electric Utility Restructuring, was enthusiastic about the potential savings to businesses and residents. "Across the board savings for all ratepayers is the Legislature's focus in the electric utility restructuring debate," said O'Brien, of Lawrence.

#### Customer Savings

Under "Consumers First," all customers of investor-owned utilities in the state would be free to enter the competitive market and choose a new supplier of electric power beginning Jan. 1, 1998.

(more)

While the exact savings resulting from competition cannot be predicted, a Massachusetts Electric pilot program has already resulted in savings of 14 percent. Harshbarger's plan would provide all consumers with a "Standard Offer" option that will guarantee a savings of at least 10 percent off today's prices, even if they do not enter the competitive electricity market right away.

The "Standard Offer" feature would serve as a benchmark for consumers to compare offers made by energy suppliers. The estimated seven-year savings mark of \$3 billion is conservatively based on a 10 percent reduction in Massachusetts Electric rates, already the lowest in the state.

"If the Attorney General and the state's largest utility can reach an agreement on this difficult subject, then we are really making some progress. Piantedosi Baking Company is most concerned with lowering our electric bills to be more competitive with out-of-state companies. If it can be done without threatening reliability, then we're for it. 'Consumers First' appears to do that," said Joseph A. Piantedosi, Jr., senior vice president of marketing for the Malden-based company.

Harshbarger's restructuring plan also would require utilities and suppliers to competitively bid against each other for the right to supply power to Standard Offer customers.

"This bid process is a must to create real competition right out of the gate. All suppliers must have the ability to market to all customers. We are pleased the Attorney General's plan provides a mechanism for independent power producers to compete to deliver power to Standard Offer customers. We expect many customers may take advantage of Standard Offer prices until they are comfortable with the new market," said Joseph Fitzpatrick, senior vice president of American National Power and state energy secretary under former Gov. Edward F. King.

"The important elements of the Attorney General's plan, and the reasons I can support it, are the preservation of existing discounts, consumer protection and enhanced energy efficiency for low-income customers. It is critical all consumers, regardless of income, have access to these essential services," said Elliott Jacobson, director of Action Energy, representing low-income consumers.

#### Environment

Harshbarger's restructuring plan also features environmental provisions that, starting in the year 2000, would require older fossil-fueled power plants to meet the same emissions standards required of new units, by the time each unit has been in operation for 40 years or by 2010, whichever comes first. This feature is a national model to address concerns that restructuring will extend the life of old, dirty power plants without holding them to current strict environmental standards.

"This plan shows we can lower prices, promote competition and improve the environment at the same time," Harshbarger said. "It's a good deal for consumers, for the economy, and for the public health."

(more)

Power plant owners would have a cap on total emissions, which could be met through a combination of measures, including emission control technologies, switching to different fuels, retiring units, or purchasing surplus emissions credits from other suppliers.

The agreement with Massachusetts Electric would not only dramatically reduce polluting emissions, but also would require additional funding for renewable energy options; and, continued funding for the company's award-winning efficiency and conservation programs.

"This plan is a big environmental step forward in three ways," said Lew Milford, senior attorney, Conservation Law Foundation. "It establishes customer choice, allowing renewable and clean plants to compete against existing dirtier sources. It provides funding to commercialize energy efficient and renewable, low-polluting power sources. And, it aggressively reduces emissions for existing coal and oil plants down to levels that their new cleaner competitors have to meet."

#### Preserving A Reliable Industry

Existing contracts would be honored and approved utility investments recovered, subject to independent market valuations, under Harshbarger's plan. For example, Massachusetts Electric would recover past investments through a charge that starts at 2.8 cents per kilowatt hour for three years, and declines over time. Today's bills include a 3.4 cent per kWh charge for these investments.

The utility would be required to conduct a market valuation of at least 15 percent of its fossil-fuel and hydro-electric generation assets. The market value then would be deducted from the amount the utility is allowed to recover.

"Massachusetts Electric and the NEES companies support the Attorney General's plan because it treats all concerned, including both our customers and our own shareholders, fairly during this transition," said Rowe.

Harshbarger's plan also would provide tax protection for communities whose local power plant may experience reduced value under competition, and create benefits for utility employees who might be impacted by the transition to a competitive market.

The "Consumers First" initiative caps at least 18 months of work by Harshbarger, Assistant Attorney General George Dean, chief of Harshbarger's Regulated Industries Division, and Dean's staff, who represent Massachusetts consumers in utility and insurance rate cases. The agreement in principle with Massachusetts Electric is the product of four months of negotiations.

(end)

**ATTORNEY GENERAL SCOTT HARSHBARGER'S**  
**"CONSUMERS FIRST" ELECTRIC INDUSTRY RESTRUCTURING PLAN**

**A SUMMARY**

1. **CONSUMER SAVINGS**

- Through the Standard Offer option, guarantees minimum 10% savings off today's prices during the first seven years of retail competition. Greater savings expected for customers entering the competitive market.
- Based on 10% savings, Massachusetts consumers will save at least \$3 billion in the first seven years of competition.
- Base rates frozen until choice date.

2. **ALL CUSTOMERS BENEFIT**

- All customers have option of choosing electricity supplier on January 1, 1998.
- Default service for customers whose supplier is unable to provide electric service.

3. **ENVIRONMENTAL PROTECTION & CONSERVATION**

- Starting in 2000, requires older fossil-fueled power plants in Massachusetts and potentially the U.S. to meet "new source performance standards" for nitrogen oxide and sulfur dioxide emissions, when the unit has been in operation for 40 years, or by 2010, whichever comes first. These standards go beyond present state and federal requirements. Power plant owners cap total emissions, which can be met through a combination of measures, including emissions control technologies, switching to different fuels, retiring units, or purchasing surplus emission credits and allowances from other suppliers.
- Nitrogen oxide emissions from New England Power Company's Salem Harbor and Brayton Point stations reduced from 23,000 tons to 10,000 tons in 2010. Sulfur dioxide emissions reduced from 80,000 tons to 20,000 tons in 2010.
- Energy conservation programs maintained at present levels. Renewables funded.

(more)

4. **LOW-INCOME PROTECTION**

- Existing low-income discount and low-income conservation programs preserved.
- Distribution companies provide default service to assure all customers access to electric service.

5. **RELIABLE, STABLE MARKET**

- Distribution companies must allow all suppliers to bid for the right to supply power to Standard Offer customers. This assures non-utility suppliers access to all Massachusetts customers either through direct retail choice or through the bid for Standard Offer customers.
- Non-discriminatory transmission and distribution rates implemented for all customers and suppliers.
- Utilities recover their historic investments through a transitional access charge that starts at 2.8 cents for 3 years, and then declines over time. Sunk costs of generation facilities and regulatory assets recovered over 12 years. Nuclear decommissioning and the above-market portion of independent power contracts recovered over the lives of the plants and contracts.
- Market valuation of at least 15% of fossil and hydroelectric generating assets required within six months of choice date. Market value is then deducted from stranded investment utilities are allowed to recover.
- Establishes performance-based distribution rates, with penalties up to \$2 million for falling below certain standards for reliability and customer satisfaction.
- Supports reform of the New England Power Pool, including the formation of a Regional Transmission Group and Independent System Operator.
- Establishes standards of conduct for affiliated companies and all market suppliers.
- Tax protection for communities whose local power plants may experience reduced value under competition.
- Fair treatment of utility employees that might be impacted by the transition to a competitive market.

(end)



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*Boston, MA 02108-1698*

**THE "CONSUMERS FIRST" PLAN**

**QUESTIONS & ANSWERS**

1. **What does Attorney General Harshbarger propose?**  
The Attorney General's plan would allow all customers choice of electricity supplier on January 1, 1998; guarantee customers a minimum of 10 percent savings on their electric bills, resulting in consumer savings of at least \$3 billion during the first seven years of the transition to a competitive electricity market; provide full stranded investment recovery for utilities; protect low-income consumers; and protect and improve the environment.
2. **Which customers would be offered an alternative to their present electric supplier and when?**  
Business and residential customers, regardless of size, would have the option of choosing a new power supplier beginning January 1, 1998.
3. **Why is the Standard Offer option important?**  
Customers may not be comfortable choosing a new electricity supplier right away, and may require more time to examine their options in the competitive market. The Standard Offer option provides reduced base rates for seven years.
4. **How much would electricity bills go down?**  
Customers that choose the Standard Offer would see their bills decline by 10 percent off today's prices. Customers that enter the competitive market should see average savings ranging from 15% to 20% initially, based on estimated market prices of 2.0 cents to 2.5 cents. As the transition charge declines over time, customers should benefit from additional savings.
5. **Can customers end up paying more than they would if the system were left 100 percent regulated?**  
No. This plan would bring more efficiency to the industry, and result in lower prices than the current regulated system can provide.
6. **Would residential customers be forced to pay higher rates to subsidize lower rates for large businesses and manufacturers?**  
No.
7. **Would the reliability of the system be affected?**  
No. All suppliers would be required to meet today's reliability standards.

8. **How does the bill protect low income customers once competition arrives?**  
Harshbarger's plan preserves today's discount for low-income customers.
9. **What protections would be afforded to those customers with difficulty making payments?**  
Existing payment plan options will be available to customers facing financial difficulties.
10. **What would customers have to do to switch suppliers? How would they know their options?**  
Customers would be informed well in advance of their options by their present distribution company. The process would be reviewed thoroughly by the Department of Public Utilities. The suppliers in the new market also would be providing information to potential customers. The transition would be as simple as we can make it. Because of the Standard Offer protections, customers would not be under any undue pressure to make decisions.
11. **Who would bear the cost of switching, the customer or the supplier? Would customers need new equipment installed? Would it be complicated?**  
There would be no charge to consumers for switching suppliers initially. Electricity would be supplied over the existing wires, and measured by the existing meter. The customer would have the option to sign a contract with a new supplier, who would make all the necessary arrangements.
12. **Do customers need special meters to participate?**  
No. But if special metering is to your advantage, your supplier would be permitted to offer that option.
13. **Tell me more about the companies who are likely to enter the market. Are they established businesses who can be relied on to maintain electric supply?**  
Today 10 major utilities sell most of New England's power to retail customers. In the future, companies selling to customers may include non-utility power producers, power marketers or resellers, and power aggregators. Many of these are established companies. New companies are expected to arise as well.
14. **Would the newcomers be regulated or can they largely do as they please?**  
It is expected that the DPU will set licensing requirements for all suppliers.
15. **What are marketers and aggregators?**  
Marketers or resellers would purchase power from a power producer, and then resell it. Aggregators would organize customers into "purchasing cooperatives" like those that exist in the home fuel oil market today, so that they can obtain more buying power and thus lower prices.

16. **Who would ensure that customers have electricity if their new supplier goes out of business?**

The distribution company would provide default service to the customer until the customer could make alternative supply arrangements.

17. **Would prices for transmission and distribution service be deregulated as well?**  
No. The Federal Energy Regulatory Commission and the Department of Public Utilities would continue to regulate transmission and distribution prices, respectively.

18. **Why wait until 1998 to start?**

Switching an industry of utilities, other suppliers and 2.5 million customers from decades of monopoly service to a competitive system is not easy. We intend to do it right so that customers see no change in reliability, service, or convenience. 1998 is an aggressive target to completely change the way utilities do business and customers buy electricity.

19. **Why can't customers get the 10 percent savings now?**

The savings will come from the competitive generation market. The Standard Offer option will be competitively bid, which won't occur until 1998. Customer savings can't be obtained until the market is established, which will take some time.

20. **What else is required for this plan to be adopted and implemented?**

The plan requires approval by the Department of Public Utilities, and parts require approval of the Federal Energy Regulatory Commission. In addition, enabling legislation might be required to change today's law and allow non-utility suppliers to sell to retail customers. Massachusetts Electric Company's participation is not guaranteed unless all other investor-owned utilities in the state also participate.

21. **Does this mean that companies would be calling me during dinner to sell electricity?**

Customers would no doubt find that they are the subject of much attention from companies wanting to supply them with power. This is the trade-off for lower prices. The Standard Offer option would allow customers to share in savings immediately, while taking their time to study the new options in a competitive market and deal with new suppliers when they are ready.

22. **Where else do customers have a choice of electric suppliers?**

Competition has been introduced in England, Norway, Sweden, Argentina and New Zealand, and is in development in several other countries. In the United States, Rhode Island recently passed a law phasing in customer choice between July 1997 and July 1998. California lawmakers have passed a bill introducing choice beginning in July 1998. If Harshbarger's "Consumers First" plan is adopted, Massachusetts would be among the states leading the country's efforts to introduce retail choice in the electric industry. Customers in Massachusetts are beginning to experiment with choice under a Massachusetts Electric Company pilot program, and a state-sponsored pilot in New Hampshire is giving 3 percent of the state's customers the ability to choose.

(C)

## CONSUMERS FOR AFFORDABLE CLEAN ELECTRICITY

*There is currently a debate over the future structure of the electric power industry. Consumers for Affordable Clean Electricity supports restructuring of electric utilities if the following conditions are met:*

**1. Stranded Costs.** Utilities should be held responsible for a fair share of their uneconomic past investments. Utilities must not be allowed to fully recover or profit from uneconomic past investments. No investments made after August 16, 1995 should be defined as stranded costs. Any access charge must be based on the volume of electricity use in order to equitably distribute the burden of stranded cost recovery.

**Securitization.** Securitizing stranded costs permanently locks in bailing out utilities for past mistakes, threatens to increase market power abuses, increase overall state borrowing costs, and does not provide real savings to customers. Securitization should not be considered without substantial concessions by utilities on rate, stranded cost and antitrust provisions.

**Exit Fees.** Exemptions from the exit fee should be limited to customers installing small, new clean and renewable generation.

**2. Environmental Protection.** Environmental impacts of the electric industry must be reduced. Any restructuring bill must require that electricity generated from coal, oil or natural gas must come from power plants that meet the same air pollution standards required for plants being built today.

**3. Fair Rates for Reliable Service.** Residential and small business customers must see substantial, immediate and permanent rate reductions. These reductions must not be limited to large industrial customers.

**Consumer Protection.** Customer service protections, such as limits on deposits and winter shut-offs, must be continued for all providers of electricity whether they are regulated as distribution companies or price-deregulated as electricity suppliers. Customers must also be protected from such marketplace abuses as slamming, invasions of privacy, excessive fees and diversion of partial payments in a manner that causes shutoffs.

**Universal Service.** All Massachusetts customers must have access to affordable electricity. There must be a service-of-last-resort with reasonable and stable prices. Low-income customers must have access to a universal service fund to reduce their payments and to targeted weatherization and conservation programs to reduce their bills; these supports should be funded by a charge on all electricity consumed.

**Conservation.** Rates must be structured to encourage conservation and discourage waste.

**Reliability Service** quality standards must assure that there are no reductions in reliability. No residential customer should be forced to take a less reliable grade of service than is available today in order to receive affordable rates.

**4. Nuclear Subsidies.** There should be no subsidies or incentives for the ongoing operation of nuclear reactors. There should be financial incentives for the safe, timely and responsible shut down of uneconomic nuclear reactors. Incremental costs of decommissioning, spent fuel storage and federal nuclear waste fund payment shall not be recoverable from consumers.

**5. Sustainable Energy Future: Energy Conservation & Renewables.**

**Energy Conservation.** Energy efficiency should be increased in the restructuring of the electricity industry. The Commonwealth should establish a goal of reducing electricity use by at least one percent per year. Distribution companies should fund energy efficiency programs to achieve this goal, at a level up to five percent of the total retail electricity price.

**Renewables.** The Commonwealth should establish a minimum renewable energy requirement that would add new, clean renewable energy generation equal to at least four percent of the total electricity sales in the Commonwealth by 2007. Large scale hydro, municipal solid waste incinerators and biodiesel generators should not be considered renewable for the purpose of this requirement.

All investor-owned and municipal utilities should contribute to a renewable energy fund at an amount equal to at least one mill (one-tenth of one cent) per kilowatt hour to help commercialize new renewable energy technologies for Massachusetts electricity customers.

**6. Antitrust Protections.** Utilities must be required to divest generation in order to be eligible for any stranded cost recovery. The Commonwealth should enact antitrust prohibitions against any one entity, or its affiliate, gaining ownership of more than 15% of regional power pool generation.

**7. Siting.** The Energy Facilities Siting Board must not have the authority to over-ride local ordinances or state environmental regulation. There must be provisions for adequate funding to enable citizen groups to intervene in the siting process. Any siting reform must provide minimum energy efficiency and renewable energy standards, as defined above.

Conversion of oil facilities to coal, or any proposed conversion to a fuel source with higher emissions, should not be exempted from siting requirements.

**Environmental Justice.** In siting new facilities, the siting board should be directed to take into account the presence of existing energy and other facilities which threaten a community's environment and public health.

**8. Consumer Power.** Consumers should be able to act through local governments to aggregate their purchasing power buying electricity in a competitive electricity marketplace.

**9. Consumer Right to Know.** All electricity suppliers must provide standardized information on electricity price, contract length and terms, and on fuel sources and emissions. This information must be provided in an easily understood label appearing on each customer's monthly bill, and on all marketing materials, with more detailed information provided in a periodic prospectus. Thorough disclosure is preferable to government certification of suppliers as environmentally preferable.

*Questions? Call Laura Scott at 617/292-4800 (MASSPIRG), Cindy Luppi at 617/423-4661 (Clean Water Action) or Michelle Robinson at 617/647-5552 (Union of Concerned Scientists).*

# Working For You

Massachusetts

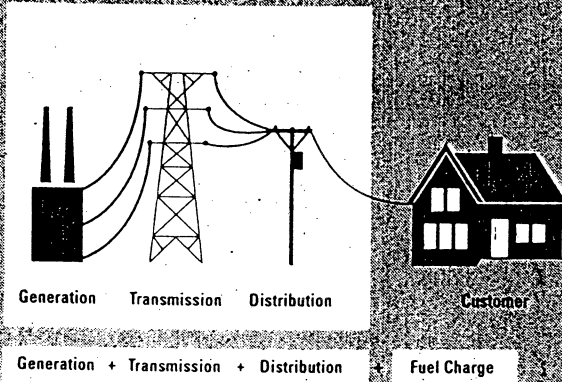
Department of

Public Utilities

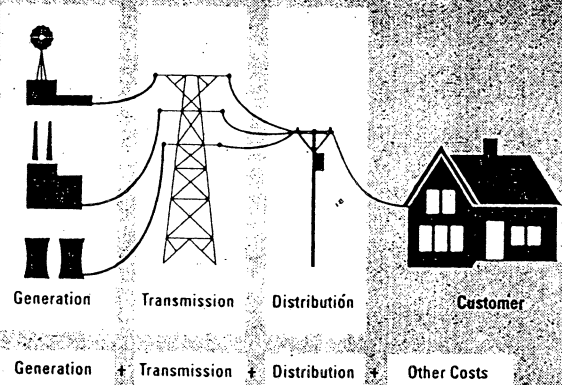
Volume 1 • Issue 1

July 1997

## Billing Before Restructuring



## Billing After Restructuring



**Message from the Chairman**  
John B. Howe

Exciting changes are being planned for the way you purchase electricity -- changes that may bring you lower costs, more payment and pricing options, and additional products and services. This year, the Legislature is considering a new, competitive framework for investor-owned electric utilities in Massachusetts. This historic change will give you, as an electricity consumer, the same freedom of choice in power supply that you enjoy for virtually every other good and service that you buy. As choice reaches the level of the individual customer, competition among suppliers vying for your business will drive down the price you pay. You can also expect, over time, to see a range of new services, exciting new technologies, a cleaner natural environment, new jobs and a healthier economy in our state.

The first visible sign of these changes is coming this summer. The Department has approved a new bill format for electric companies that will

*continued on p.4*

## Electric Restructuring and Competition: A Choice for Customers

The electric industry has historically operated as a monopoly. Consumers have been served by a particular electric company based on where they live, and they have had no choice of power company. The year 1998 may begin a new era of customer choice in electricity services.

A segment of the electric industry will soon operate as a competitive market. This restructuring of the electric industry is being driven by a number of forces. The technology used to generate electricity has advanced, and many customers have demanded more choices and lower prices.

The Department of Public Utilities has decided that the forces for change, while inevitable, must be guided carefully to ensure that restructuring provides benefits to all consumers. The Department of Public Utilities is the state agency that oversees the companies that provide electric, gas, telephone, and water services. Among the Department's responsibilities are protecting consumers from unreasonable rates and encouraging utilities to operate efficiently.

In December of 1996, the Department proposed legislation that would allow competition among electric generators. If legislation is enacted, consumers will be able to choose their supplier of electricity. In addition, consumers may be able to purchase new products and services from electricity suppliers.

The next step in restructuring is changing the format of your electric bills, to make it easier for you to compare power suppliers. This change is highlighted inside this newsletter. Future issues of this newsletter will include tips on choosing an electricity supplier, consumer protection guidelines, and news about other regulatory changes such as new telephone area codes.

Inside This Issue	
Your New Bill	2
Q & A	3
Key Dates	3
Itemized Gas Bills	4

The unbundled bill is a sample, for illustration only.

**Old Bundled Bill**

FOR SERVICE TO	
<b>SUMMARY</b>	
PREVIOUS TOTAL BILL	55.73
PAYMENTS AS OF	51.73
BALANCE AS OF	4.00
CURRENT CHARGES	64.07
AMOUNT NOW DUE	64.07

**New Unbundled Bill**

ACCOUNT NUMBER 1600 528 0012	BILLING DATE JAN 31, 1997	NEXT READ DATE FEB 15, 1997																
<b>SERVICE PROVIDED TO</b> RESIDENTIAL UNBUNDLED 2421 CRANBERRY HWY WAREHAM MA 02571-0907																		
<b>ELECTRICITY USED</b> RATE 32 RESIDENTIAL ANNUAL METER NUMBER 8065430 JAN 26, 1997 ACTUAL READ 8102 DEC 26, 1996 ACTUAL READ 5652 30 DAY BILLED USE 450		<b>ACCOUNT SUMMARY</b> PREVIOUS BILL \$4.28 PAYMENT / THANK YOU \$4.28 TOTAL COST OF ELECTRICITY \$4.07 AMOUNT DUE \$64.07																
<b>USE COMPARISON</b> <table border="1"> <thead> <tr> <th>PERIOD</th> <th>AMOUNT</th> <th>PERCENT</th> <th>YEAR</th> </tr> </thead> <tbody> <tr> <td>CURRENT MONTH</td> <td>450</td> <td>15</td> <td>93</td> </tr> <tr> <td>LAST MONTH</td> <td></td> <td></td> <td></td> </tr> <tr> <td>ONE YEAR AGO</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		PERIOD	AMOUNT	PERCENT	YEAR	CURRENT MONTH	450	15	93	LAST MONTH				ONE YEAR AGO				<b>COST OF ELECTRICITY</b> <b>DELIVERY SERVICES</b> CUSTOMER CHARGE 7.18 DISTRIBUTION / ACCESS .09446 X 450 KWH 42.51 TRANSMISSION .00395 X 450 KWH 1.78 <b>SUPPLIER SERVICES</b> GENERATION CHARGE .02800 X 450 KWH 12.60 TOTAL COST OF ELECTRICITY * 64.07 <small>*INCLUDES A FUEL ADJUSTMENT / KWH CHARGE OF \$0.06500</small>
PERIOD	AMOUNT	PERCENT	YEAR															
CURRENT MONTH	450	15	93															
LAST MONTH																		
ONE YEAR AGO																		

<b>RATE R1</b>	
BASIC MONTHLY CHARGE	\$7.18
ENERGY CHARGE	450 * KWH @ \$0.094533 ** 38.04
**FUEL CHARGE	450 * KWH @ \$0.041892 18.85
CURRENT CHARGES	\$64.07

**COST OF ELECTRICITY**



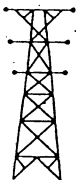
**Customer Charge**

This portion of your bill covers the basic costs of providing service, such as metering, meter reading, and billing. These fixed costs are unaffected by the actual amount of electricity you use.



**Distribution/Access Charge**

This is the cost of delivering electricity over wires to a customer's location. This charge also includes costs associated with prior investments in generation, environmental enhancements and other charges approved by the Department of Public Utilities.



**Transmission Charge**

This charge reflects the cost of moving electricity over high power lines from a generating plant to an electric company's service area.



**Generation Charge**

This charge reflects the cost of producing electricity in power plants by transforming other forms of energy into electric energy.

**Supplier Services**

This portion of your bill may be determined by choice as early as January, 1998 when customers can select their electricity supplier.

**DELIVERY SERVICES**

CUSTOMER CHARGE			7.18
DISTRIBUTION / ACCESS	.09446 X	450 KWH	42.51
TRANSMISSION	.00395 X	450 KWH	1.78

**SUPPLIER SERVICES**

GENERATION CHARGE	.02800 X	450 KWH	12.60
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<b>TOTAL COST OF ELECTRICITY *</b>			<b>64.07</b>
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## Q & A

### **A New, More Informative Bill**

Ready for competition? This summer, electric utility bills in Massachusetts will be changing in preparation for restructuring. The Department of Public Utilities has requested that electric utility companies provide your monthly electric bill in a new format. This format will be itemized to show the different components in your total electricity charge, enabling you to compare rates among companies. Your electricity rates have not changed -- only the appearance of the bill is new.

Currently, your local utility company bundles your charges. The monthly charge on your bill includes the costs for generating the electricity, transmitting it to your region, and distributing it to your home or business.

As early as January 1, 1998, subject to approval by the Massachusetts Legislature, power companies will be able to compete to provide electricity generating services. Your local utility company will still own and operate the distribution wires in your area, but competition will allow you to buy electricity generated by the company of your choice. You will have a choice among several companies that offer different prices for generation. Your choice will be similar to the choice you now make for long-distance telephone service.

To prepare you to choose your preferred generator of electricity, your bill will be unbundled. Electric bills are being unbundled now to give consumers time to adjust to the new format. The sample itemized bill on the facing page illustrates the separate charges for the generation of electricity, transmission and distribution charges.

Once restructuring begins, you will be billed for electricity generation at the rate offered by the supplier of your choice. Transmission rates will still be set by your local utility company and regulated by the federal government, and the utility company's distribution charges will continue to be regulated by the Department of Public Utilities.

**Unbundling is an industry-wide term for itemizing your bill.**

#### **What's new about my electric bill?**

Your new bill unbundles, or separates, the charges for distribution, transmission and generation, which were previously grouped together.

#### **Why has my bill format changed?**

Provided that the Legislature authorizes competition among suppliers begins in 1998, you will need to know generation prices to make an informed choice. The new bill format is mandatory, and it will help you to make a choice of electricity supplier.

#### **Am I paying more under this new bill format?**

No. Your rate has not changed. The new bill format itemizes specific charges but the total amount of your bill remains the same. Some rates, such as the fuel charge, may still change periodically.

#### **Will all Massachusetts electric utilities send unbundled bills to their customers?**

Yes. All Massachusetts investor-owned electric utilities will send unbundled bills to their customers. Municipally owned light plants will change their bills if and when they decide to enter the competitive market.

#### **If I have questions about my bill, whom should I contact?**

Always contact your electric utility company first. If you still need additional help, you are welcome to contact the Consumer Division of the Department of Public Utilities at (800) 392-6066.

### **Key Dates for Electric Restructuring**

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#### **July 1 - August 31, 1997**

Unbundled Billing Begins.

Electric companies will begin using new bill formats to show itemized charges.

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#### **January 1, 1998**

Choice Day.

The proposed start date, depending upon Legislative action, for consumer choice of electricity supplier.

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## Itemized Gas Bills Make Comparison Shopping Easy

The electric utility industry is not the only industry affected by restructuring. Beginning at the end of 1997, monthly residential gas bills will also be unbundled to show different costs and to prepare consumers for the possibility of restructuring.

Gas is a commodity that, like electricity, can be bought and sold. In the present system, residential customers buy gas from the same company that delivers it. In the future, residential customers could purchase gas from a competitive supplier, while their current gas company would continue to provide delivery, or distribution, services.

The Department of Public Utilities is currently investigating additional restructuring in the gas industry. In Massachusetts, commercial and industrial gas customers are now able to choose a competitive supplier. The Department's investigation will determine how this choice will be extended to residential customers.

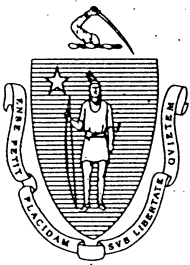
In preparation for this change, gas bills will be formatted to show the component charges of gas service, separating natural gas costs from other costs, such as pipeline distribution. The new gas bills will appear similar to the unbundled electricity bills.

For residential customers, choice of a gas supplier will likely lead to a reduction in monthly gas bills, although the price of gas is influenced by other factors such as weather and national energy markets. One ongoing pilot program for residential customers in a limited area has guaranteed a ten percent reduction in monthly gas costs.

*continued from p. 1*

separately list, or unbundle, the costs associated with the services your electric company provides today: generation, transmission and local distribution. In the future, your current utility will continue to provide highly reliable transmission and local distribution service. Following legislative action, you will have a choice of power generation suppliers.

Please take the time to learn about these important changes. The Department of Public Utilities and your local utility will be providing information regularly, and you can soon expect to see and hear advertisements from new suppliers. As with anything that you can buy, you will find it well worth your while to become an informed consumer!



Commonwealth of Massachusetts

William F. Weld, Governor

A. Paul Cellucci, Lieutenant Governor

John B. Howe, Chairman

Janet Gail Besser, Commissioner

[www.magnet.state.ma.us/dpu/](http://www.magnet.state.ma.us/dpu/)

Consumer Division Hotline:

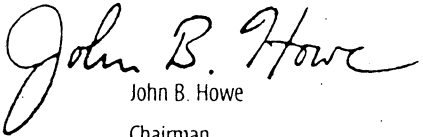
(800) 392-6066

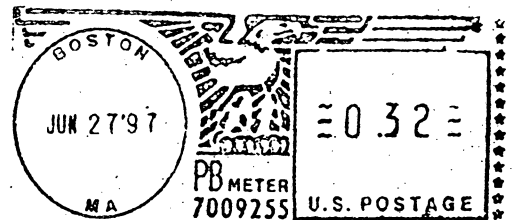
Department of Public Utilities

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Boston, MA 02202

**for more information**

  
John B. Howe  
Chairman



Mr. Paul Schlaver  
Cambridge Consumers Council  
831 Massachusetts Ave.  
Cambridge, MA 02139

(e)

**TESTIMONY OF JERROLD OPPENHEIM,  
NATIONAL CONSUMER LAW CENTER\***  
on behalf of  
**MASSACHUSETTS SENIOR ACTION COUNCIL,  
CAPE ORGANIZATION FOR RIGHTS OF THE DISABLED (CORD),  
ACTION INC.,  
MASSACHUSETTS ENERGY DIRECTORS ASSOCIATION, and  
MASSACHUSETTS COMMUNITY ACTION ASSOCIATION**

Before the  
**JOINT COMMITTEE ON GOVERNMENT REGULATIONS  
of the  
MASSACHUSETTS GENERAL COURT**

**REGARDING ELECTRIC UTILITY RESTRUCTURING**

**MARCH 26, 1997**

**I. INTRODUCTION**

I am Jerrold Oppenheim, attorney of the National Consumer Law Center, Inc., representing low-income clients including Massachusetts Senior Action Council, Cape Organization for Rights of the Disabled (CORD), Action Inc., Massachusetts Energy Directors Association, and Massachusetts Community Action Association.

Massachusetts Senior Action Council is a statewide organization devoted to advocacy of senior citizens' interests. CORD is a Cape Cod-based organization of people dedicated to advancing the rights, opportunities, and integration into the mainstream of life of people with disabilities. Action Inc. is a community action agency based in Gloucester that operates low-income energy programs, including conservation. The Massachusetts Energy Directors Association includes managers of low-income energy programs in the Commonwealth. The Massachusetts Community Action Association includes 23 community action organizations that operate anti-poverty programs, including low-income energy programs.

The National Consumer Law Center is the nation's leading low-income consumer law publisher and public interest law firm.

The major concerns that compel our testimony today are: (1) the price the little guys pay, (2) comprehensive and specific consumer protections, (3) specific protections for low-income consumers, especially around the default service that many will be forced to take. Our fears are

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that (1) the competitive market will demand what the traffic will bear from those with the least practical choice in the marketplace — captive consumers, (2) without mandated protections, the marketplace will demand compensation for such everyday protections as reliability, continuation of service to the sick and elderly during cold weather, and reasonable notice before termination, and (3) that service to low-income consumers will be restricted by such redlining practices as stringent credit screens that leave the most vulnerable assigned to a “default service” with high and volatile prices.

The General Court’s Special Joint Committee on Electric Utility Restructuring has done an unusually thorough job of describing the many complex issues that you face. This is a time of great opportunity for many. But it is also a time of great risk.

Massachusetts consumers are being thrust to the frontier of the electricity restructuring and deregulation experiment. As the industry changes, new and increased risks will be visited upon consumers.

Prices will be set by market participants as yet unidentified. Will they have the oligopolistic power to control prices in a way that makes us yearn for the old regulated monopoly? Will they be able to segment the market, as the deregulated telephone industry has done, into discount-receiving large customers and captive residential customers paying premium prices for diluted quality? Will they, as the deregulated banking industry has done, divide up residential customers into preferred credit risks who get lower prices and extended payment terms while undesirable customers pay higher prices but get shut off more quickly?

Will consumers be protected from arbitrary credit decisions or from rapid shut offs? Will the sick or the elderly be protected from extreme weather conditions? Will consumers who want such protections be forced to accept volatile spot-prices as a condition of receiving consumer protections formerly taken for granted? Will dinner intrusions now include unwanted solicitations from electricity marketers? Will the lights stay on?

And if the new electricity marketplace does include protections against these consumer risks, who will right the wrongs that occur? Will the DPU’s extraordinarily effective Consumer Division be beefed up to handle disputes with marketers and generators or will consumers be left to fend for themselves in Small Claims Court or individual consumer protection actions in court?

## II. PRICES

We understand the proposal of the Special Committee to be a four year 10% drop, subject only to current regulatory increases after the first year (i.e., fuel clauses and cost-based rate cases) and further subject to an inflation cap. This is a consumer guarantee very much in line with what we asked for. Thank you.

The Special Committee's bill would also allow an alternative form of rate regulation for the monopoly distribution utilities that would remain after restructuring. It is known as Performance-Based Ratemaking, or PBR, and relies on performance benchmarks in place of cost of service. PBR could be a step forward or backward, depending on how it is implemented. It needs to be more clearly specified in authorizing legislation to, for example require reference to benchmarks for universal service and service quality. We are working on a study for the National Association of Regulatory Utility Commissioners (NARUC) on this subject and will be pleased to provide it to you as soon as a draft becomes public, probably in July.

Our biggest concern about prices in a restructured electricity industry is the market segmentation that competitive markets usually perform. The fancy economists' phrase for this is the inverse elasticity rule. In plain English: charging whatever the market will bear, which includes charging less to those more responsive to price and more to those who are captive and therefore less responsive to price.

A good example of market segmentation occurred when the airlines were deregulated. Consumer leisure prices fell because consumers could vacation elsewhere, defer their trips, or drive instead. Prices for the last-minute tickets typically used by business travelers skyrocketed — and business travelers had no choice but to pay up or go out of business. Studies show that, in addition, service frequency, service quality, comfort, and airplane quality declined in many places. Furthermore, while general price levels may have declined, prices for captive travelers at airports dominated by one or two airlines increased by as much as 26%. (U.S. General Accounting Office, *Airline Deregulation*, April 1996.)

Some economists say this is an "efficient" result of the application of "welfare economics" because it tends to extract from people the value they place on the service — the higher the value they place (i.e., the fewer substitute choices they have), the more they will pay.

Another example occurred in the telephone industry. Attached is a chart showing what happened to local home telephone prices since 1983 (the year before the AT&T divestiture and the FCC's restructuring of the long distance market) — up 64%. The line going down 50% in the same period represents business long distance prices. (AT&T and MCI say this line should show an even steeper drop. Local rates are based on the local residential telephone component of the Consumer Price Index, compiled by the U.S. Bureau of Labor Statistics. Long distance is the AT&T price of a five-minute cross-country business call.) Telephone pricing is a complicated combination of political and marketplace decisions, but the economic objectives of telephone carriers are summarized by the inverse elasticity rule— charge as close as possible to what the market will bear for each service. The big business customer sector is primarily a long distance market and it is hotly competitive. Residential customers, however, have few meaningful choices. Most of their use is local. There is little choice in where to buy local service, so local prices skyrocketed to make up for the big discounts granted to big business.

The old monopolist AT&T still holds onto about 60% of the residential long distance market, and more than half of those customers still maintain "standard offer" undiscounted service. And the recent Congressionally mandated competition in local telephone service and cable TV has, so far, only brought cable TV price increases and proposals to raise local telephone prices even higher than they already are. Thus, as telephony costs decline in parallel with those of the computer technology on which they are based, residential prices continue to climb. According to a survey by the Consumer Federation of America, the major local telephone companies last year had profits of 20-42% on equity as compared to the all-industry average of 17% ("The Telecommunications of Act of 1996 One Year Later: Time to Deliver the Goods," March 1997).

Are the restructured prices for local and long distance service now cost-based? I think not, but economists will argue over that one forever. However, the impact of price changes are perfectly clear — if you were a captive residential customer, your bill went up. Some "welfare economists" may conclude this is an efficient result. But is it good social policy? Is it in the interests of consumers? I submit not.

This pricing behavior is neither surprising nor unusual. It is the way competitive markets work -- which is one reason the General Court protected consumers in the first place from unbridled competition among utilities. The Senate Post Audit Committee summarized well the inverse elasticity rule that markets apply in its December 1995 report, "A Prescription for Competition: The Restructuring of the Electric utility Industry" (at pages 22-24):

... indications are that new reliance may be placed on the customer's willingness to pay in order to determine market prices.

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Econometric studies have shown that the demand for public utility service is relatively inelastic. An inelastic demand is one in which a one percent change in price will cause a less than one percent change in demand.

\*\*\*

Customers with relatively high elastic demands are those who have several options they can take relative to the acceptance of utility service. In the long-run, these are mainly industrial customers. ...

On the other hand, over the long-run, residential and low use customers generally have a highly inelastic demand for public utility service; they have a dire need or reliance on the utility service and therefore are less willing or able to reduce demand as the price increases.

... Therefore, the electric utility will be able to increase revenues by charging a higher price where demand is inelastic and a lower price where demand is more elastic. [footnote omitted] The rates charged to customers with inelastic demands could be raised with little worry about greatly diminished consumption.

...

Thus a study of IES Utilities in Iowa found that if 100% of the relatively modest Iowa stranded costs were recovered by utilities but, for example, pricing reduced half the industrial share, industrials would save while residential and commercial rates went up -- before whatever additional market segmentation strategies were devised by generation suppliers. (Geoffrey Crandall, MSB Energy Associates, "Electric Industry Restructuring in Iowa: Residential and Low Income Customer Impacts," August 1966.)

So we are embarking on a gigantic pricing experiment that may reduce consumer prices -- or that may raise them. Before we start, it is important to examine the risks each party to this experiment is taking and how the rewards of the experiment will be distributed.

The existing utilities shed what risk they had and are now to be guaranteed recovery of their strandable costs provided only that they have duly mitigated them. Similarly, large industrial customers have already begun to receive lower prices. Even the environment is better off due to guarantees of demand side management and renewable energy.

Industrial price reductions may lead to economic development and increased employment, which we, of course, favor. We all breathe the air and are pleased with the efforts to make it cleaner. We even have no objections to reducing risks to utilities, everything else being equal. But under pending restructuring proposals, risks would shift and not disappear.

Risks to residential customers would be substantially increased. Market segmentation will tend to increase rates to captive residential customers. Furthermore, increased electricity sector use of natural gas will increase gas prices and thus increase the price of gas used for residential heating and cooking. Another new risk is the threat of market power in the electric generating business. To the extent unregulated generation oligopolies are allowed to form from the divested, formerly regulated monopoly utility plants, new upward pricing pressures will arise. Consolidations now occurring in the restructured air carrier and telecommunications industries are instructive.

Families living on stagnating wages -- and especially low-income families forced to live on diminishing benefits -- are not prepared to accept the risks of electricity restructuring, especially risks others are not being asked to bear.

We will be pleased to work with you to develop legislative language that will prevent the kind of market segmentation that can only injure the Commonwealth's families.

### III. CONSUMER PROTECTIONS

Consumers generally and low-income consumers in particular need protections from market-place abuse. As Nancy Brockway, my colleague at the National Consumer Law Center, testified in detail to the Special Committee and Allan Rodgers, director of the Massachusetts Law Reform Institute, explained in a letter to this Committee today, the General Court must retain existing protections for consumers against abuse by new marketers. No cogent reason has been offered to exempt any market player from the rules of civilized corporate behavior that the Commonwealth has developed for electricity service over the last 25 years. The universal applicability of these rules needs to be made plain and clear.

We have enormous respect for the skill of the Department of Public Utilities' (DPU's) Consumer Division. We therefore think it essential that the Division be given the tools to continue to oversee the electricity marketplace. Many of the following protections<sup>3</sup> are allowed, though not required, by the Special Committee's bill. All should be mandated.

Existing statutes protect consumers from landlord nonpayment and shutoffs during times of extreme weather or illness. They also protect the very young and the elderly.

Existing DPU regulations assure fairness in the extension of credit, requirement of deposits, assessment of late charges, offering of deferred payment arrangements and levelized billing, and setting of preconditions for termination (including billing, metering, and notice).

The General Court should guarantee consumers that none of these valuable protections will be lost as a result of restructuring. In addition, experience with other recently deregulated industries has taught the necessity for protections against:

- invasions of privacy (especially with respect to sharing of billing information),
- mandatory time-of-day metering,
- mandatory arbitration,
- mandatory pre-payments or service limiters,
- mandatory multi-year contracts,
- slamming,
- arbitrary barriers to changing suppliers,
- failure to prominently disclose prices and resources used,
- reduced reliability (automatic damages should be provided for outages),
- termination for nonpayment of other bills,
- misallocation of partial payments, and failure to notify of price changes.

As the Special Committee's bill provides, remedies should include fines, license revocations, injunctive relief, and private rights of action.

electricity bills more affordable. Our program for low-income demand-side management (DSM) (conservation) includes (a) comprehensive and standard program designs and measure packages, (b) no co-payment by consumers other than a nominal co-payment (such as a small lease fee) that does not diminish participation and that is financed in the bill, (c) employment of and coordination with existing programs and agencies, including by constituting an advisory group that represents low-income consumers and providers, and (d) a statewide fuel-blind fund that uses a maximum of 10% for non-technical administration and is funded at a minimum of 15% of utility residential DSM budgets and a minimum of 0.1% of all electricity revenue.

## V. CONCLUSION

Competition can be a useful tool -- dueling supermarket chains usually engage in a price war from which consumers benefit. But unfettered competition also often fails to meet social objectives we have set for ourselves. One of the most costly examples of this for consumers is the market segmentation that, for example, rarely offers the treat of a grocery price war to Inner City neighborhoods.

The General Court has led the nation over the last Century in reaping the benefits of competition while protecting consumers -- especially electricity consumers -- from the undesirable features of unfettered competition. Please don't let us down now.

We will be happy to offer statutory language to accomplish these ends. In particular, the DPU has agreed to discuss with us language to protect customers from such serious abuses as redlining (selective marketing).

#### IV. LOW-INCOME PROTECTIONS

Because restructuring places low-income families at the greatest risk, it is time to make explicit the Commonwealth's policy objective of universal, affordable, high-quality electricity service.

Affordability should take into account income, household size, conservation opportunities, and the relationship of bill size to income. The low-income sector of our Commonwealth is growing at an uncomfortably rapid pace while the resources we devote to these families has diminished sharply. Even before welfare reform, the 1990s witnessed substantial tears in the Massachusetts safety net. From their funding peaks through last year, programs have suffered the following cuts:

- Emergency Assistance: Homeless Prevention for Families — -64%
- Rental Assistance — -62%
- Federal Emergency Management Agency (FEMA) Homeless Assistance — -51%
- Fuel Assistance — -49%
- Food Stamps — -32%
- Aid to Families with Dependent Children — -21%
- Federally-subsidized Public Housing — -11%.

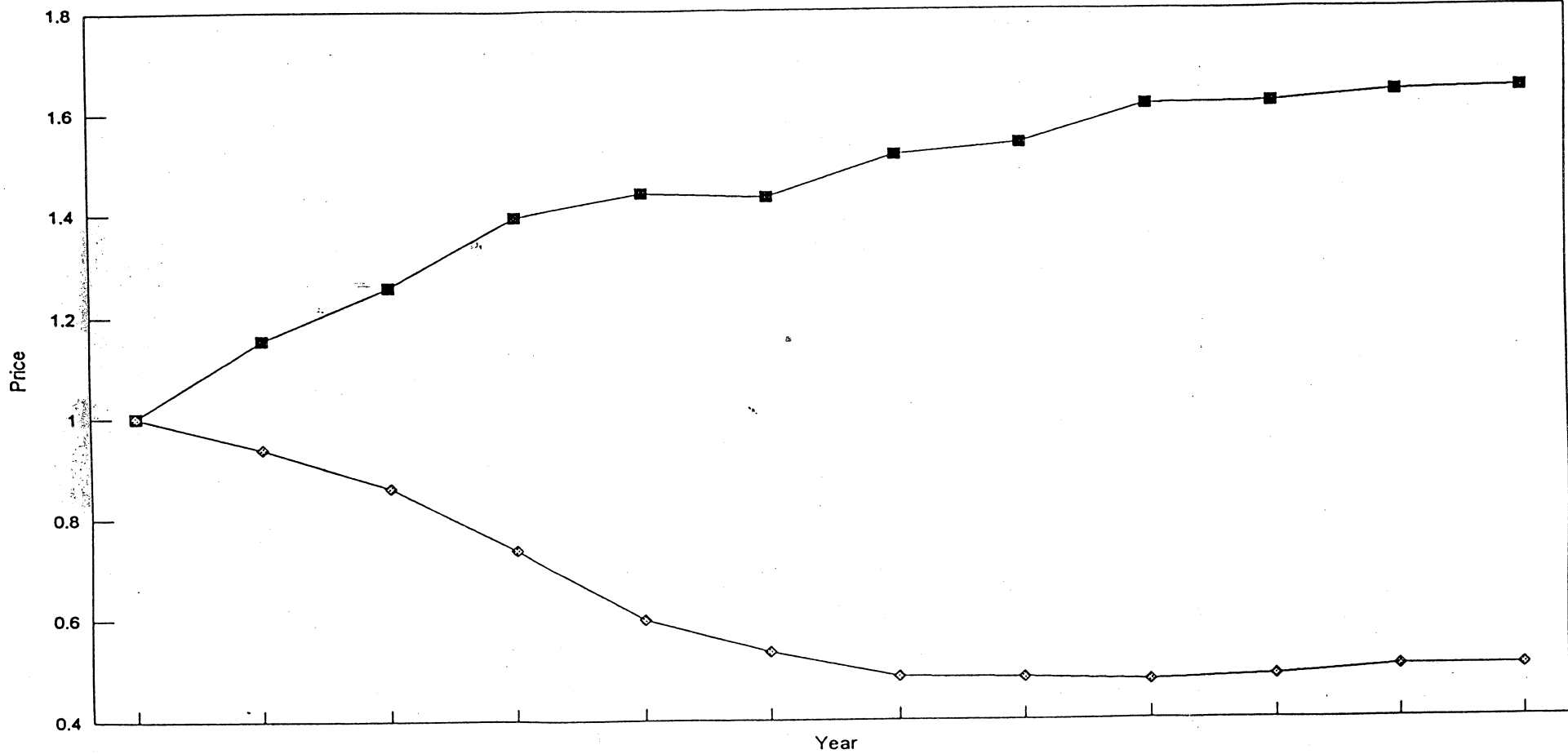
(McCormack Institute of Public Affairs, University of Massachusetts Boston, "Over the Edge," January 1997.)

As Nancy Brockway described in greater detail in her testimony to the Special Committee, of particular concern to us is the Default Service that many low-income families with poor credit will be forced to accept. This service must be designed in such a way as to minimize the price volatility otherwise associated with spot market pricing -- a task in which the DPU has agreed to work with us to solve. This service must also be designed in such a way so as to guarantee that it does not become merely a mechanism for distributing the highest cost power after the most desirably priced power has been snapped up by customers with greater market power.

Because low-income consumers are so vulnerable and at such greater risk from restructuring than others, it is not enough that the low-income discount remain at the same low level (17% to 36% of the total bill) and that only about a quarter or less of low-income families actually receive it. It should be increased to a uniform 60% with mandatory improvements in outreach. (Discount percentages computed from DPU data applied to full rates.)

Finally, the housing stock of low-income consumers must be improved both to stop the needless waste of resources represented by, for example, heating leaky houses and in order to make

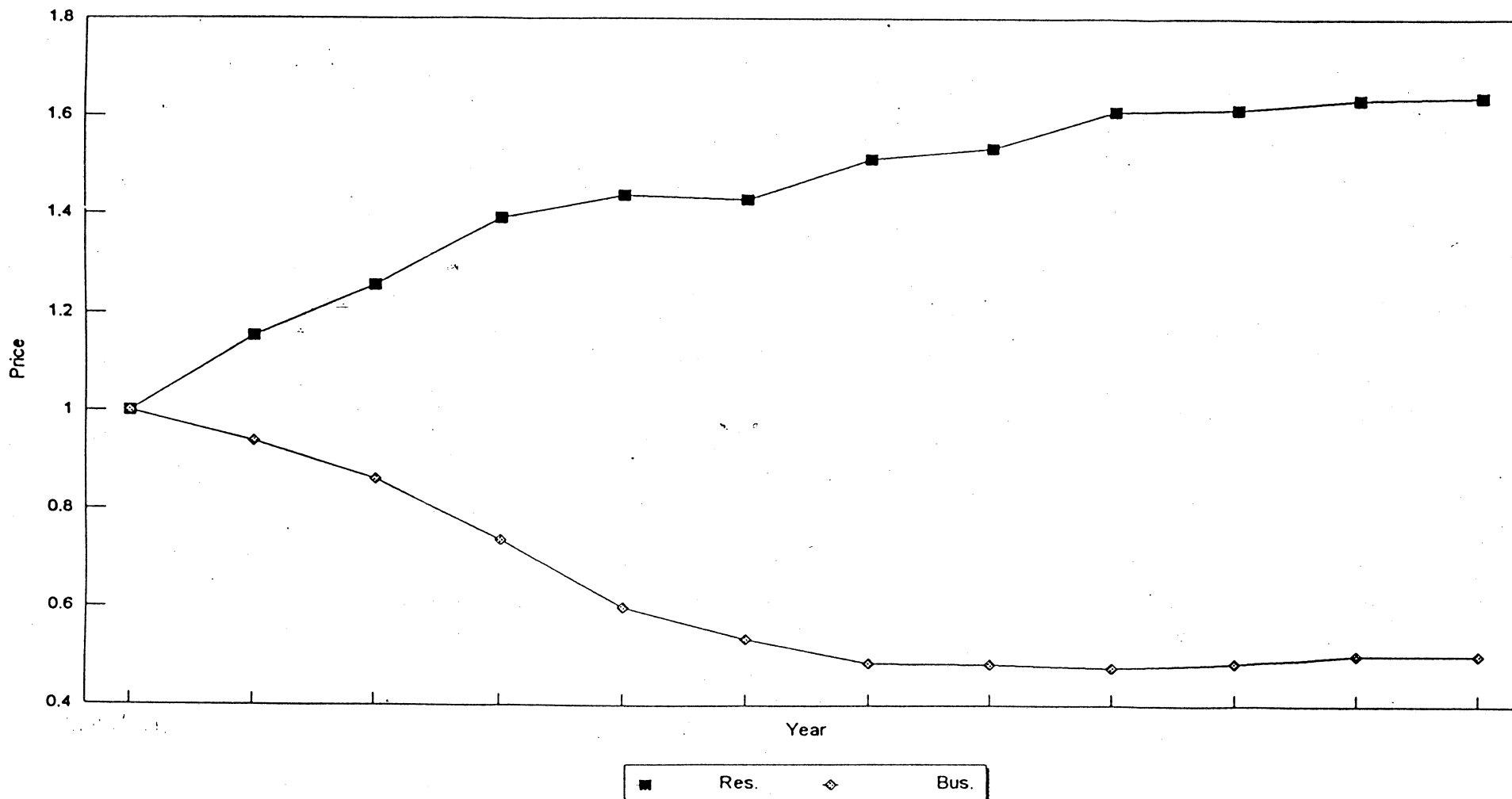
Local and Long Distance Prices, 1983-1994



■ Local Res.    ◇ AT&T LD Bus.

# ELECTRICITY RATES AFTER RESTRUCTURING, 1998-2009?

## Local and Long Distance Prices, 1983-1994





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October 20, 1997

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 14, regarding a report on the new legislation to restructure the electricity generation industry in Massachusetts, received from Executive Director of the Consumers' Council Paul Schlaver.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mec  
attachment

Consent Agenda #17

S-686  
Call

Relative to Awaiting Report Item Number  
Fourteen, regarding a report on the new  
legislation to restructure the electricity  
generation industry in Massachusetts.

In City Council October 20, 1997

Charter Right  
exercised by  
Councillor Galluccio  
October 27, 1997  
Report accepted  
on motion of  
Councillor Galluccio