



March 24, 2021

Mr. James Judge
President and Chief Executive Officer
Chairman of the Board
Eversource Energy
800 Boylston Street, Suite 1700
Boston, MA 02199

Dear Mr. Judge:

On behalf of the Massachusetts Association of Assessing Officers (MAAO), Massachusetts Collectors and Treasurers Association (MCTA), Massachusetts Municipal Association (MMA), and its membership, we are sending this letter to express our concerns regarding personal property tax appeals and \$47+M owed to Massachusetts cities and towns.

The MAAO recently surveyed our membership on the issue of taxation of the personal property of public utilities. The survey identified your Company as having a large number of tax appeals and a very high incidence of unpaid taxes and interest. At the MAAO Executive Board meeting held on March 9, it was voted to communicate to the Company the high level of concern at the Company's record of filing tax appeals and withholding the total payments due to cities and towns.

For the last decade, Eversource (NStar Gas, NStar Electric, WMECO, etc.) has annually filed tax appeals against a group of large municipalities. There are currently nearly one hundred appeals pending. This practice has persisted even though the Company has not received a single favorable decision at the Appellate Tax Board (ATB), the Appeals Court, or the Supreme Judicial Court (SJC). Furthermore, Eversource has withheld personal property tax payments from several of these communities. The unpaid tax now exceeds, in the aggregate, \$30M, and the accrued interest is now over \$17M. With a statutory rate of fourteen percent (14%), we fail to comprehend why the Company continues this practice.

The Company has failed to persuade the courts that the assessors are overvaluing the property. The shift away from net book value (NBV) as the accepted method for valuing utility personal property has been evolving for over three decades. In 2011, the SJC ruled against Boston Gas's claim of assessments being limited to NBV. The ATB ruled against NStar Electric (the City of Boston as appellee) in 2016, and then the Appeals Court affirmed the ATB decision in 2019. The SJC refused further review. The ATB then ruled against WMECO (the City of Springfield as appellee) in 2018 and issued Findings in 2020.

The Massachusetts Department of Revenue (DOR) has abandoned NBV as the default method and no longer will accept it as a valid measure of fair cash value. Beginning July 1, 2021 (FY22), all 351 cities and towns must comply with DOR's new policy. Recognizing the series of court decisions, the DOR issued a Local Finance Opinion in March 2019, which announced their abandonment of NBV. The Company has recognized that in light of the DOR ruling, "legal challenge is now futile...." Company's Initial Brief, DPU No. 19-20, at 78 (emphasis in original).

In order to set tax rates in the next several months for the issuance of FY22 bills in September (semi-annual communities) or December (quarterly billing communities), municipalities will no longer be allowed to assess at NBV. Please note, the DOR has determined that NBV no longer complies with the Fair Cash Value standard.

At least two people at Eversource seem to understand the lasting impact of the Boston Gas decision. As stated by company officials in testimony (see Exhibit ES-DPH/ANB-1) before the DPU on November 8, 2019, "the Boston Gas case precedent will be difficult to overcome," and as the Company's "potential...to prevail in the litigation process is diminishing, the payment of substantial interest costs on the outstanding tax expense is not warranted or appropriate." Further, these officials testified "...the ATB process is likely to be unsuccessful, if not futile for the company." We agree.

Also, in DPU 19-120, the Company's brief at 78 states, "As a result [of DOR abandoning NBV] Eversource must pay any tax assessments imposed in the municipalities in which it operates and the strategy of heading off these costs through a legal challenge is a waste of money, time, and effort." (TEC Initial Brief at 14-15) We concur and note that it is not just the Company's money, time, and effort wasted. It is also the cities' and towns' money, time, and effort.

The Company's pattern of withholding full payment and incurring interest reflects poorly on the Company's reputation and image and is quite likely to prove extremely costly. We recognize that all taxpayers have rights and that the Company has paid enough to establish standing in the courts. We find the withholding by an organization of Eversource's resources to be confounding and very troubling. Cities and towns pay the electric and gas bills incurred by our organizations, and we expect that the vast majority of our residents and businesses pay their bills as well. We view with consternation the Company's disregard for its fiscal responsibilities to the communities it is licensed to serve. Given the clear and consistent rulings from courts, the only apparent reason for the Company to continue to withhold payment is to apply fiscal pressure to cities and towns as a strategy to provoke settlements.

Finally, we will oppose and resist any effort to have ratepayers absorb through higher rates the unnecessary interest costs that result from the Company's withholding of property tax payments in the face of clear case law that supports the assessments which your company disputes.

Given the above facts, we believe the Company is not acting according to the court decisions or the DOR policy. The Company's continuing posture of litigation would appear to be subject to question as being prudent or not. The failure to pay the total tax and amass an interest bill approaching \$18M is surprising. Again, that is an expense that appears not to be incurred prudently.

We strongly urge you to re-consider the Company's posture. The Company has effectively exhausted its judicial and administrative remedies. We believe a reasonable and logical conclusion is that the Company would withdraw all pending cases on file at the ATB or Appeals Court covering FY12-21 against all cities and towns.

Further, the Company should cease its practice of withholding taxes and pay all outstanding tax balances along with the interest and fees that have accrued. The notion that Eversource is withholding payment to leverage communities into a more favorable assessment is troubling. Cities and towns need these revenues to pay for essential services and meet the still emerging needs related to the pandemic.

Please forward your response to MAAO at 44 Bearfoot Road, Suite 200, Northborough, MA 01532 or via email at director@maao.org. Thank you for reviewing our concerns, and we look forward to hearing from you.

Sincerely,



Hanan Bedri
Executive Director
Massachusetts Association of Assessing
Officers (MAAO)



Michelle Hill
Board President
Massachusetts Collectors and Treasurers
Association (MCTA)



Geoffrey C. Beckwith
Executive Director
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Cc: Mr. Philip Lembo and Board of Trustees