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OCC NEWSLETTER - SUMMER-FALL 2007

Major State Energy Bill Creates Hope and Concerns

Again the OCC was actively engaged in the legislative session this year on behalf of utility customers. In reference to electricity issues, the most significant piece of legislation that passed was Public Act 07-242, *An Act Concerning Electricity and Energy Efficiency* (the "Act"). This Act contains some provisions that will be beneficial for customers and other provisions that create concerns.

Connecticut is part of the Regional Greenhouse Gas Initiative ("RGGI"), a groundbreaking, cooperative effort by states in the Northeast to reduce the emission of greenhouse gases in response to climate change concerns. Section 93 of the Act is a very strong provision which ensures that RGGI will result in benefits to the public, and not a windfall for power plant owners. Under RGGI, power plant owners will have to possess emission allowances in order to emit carbon dioxide. Section 93 appropriately requires that: (i) all emissions allowances be auctioned off, rather than given for free to power plant owners; and (ii) the proceeds from the sale of all pollution emissions allowances under RGGI go toward energy efficiency and the cleanest forms of renewable power. OCC also supports Section 126 of the Act, which returns \$95 million to the Energy Efficiency and Clean Energy Funds that had been taken in prior years to meet the budget. OCC also views Section 51 of the Act favorably, which Section restores a robust electricity planning process to the state. In recognition that

something called the "market" is not bringing us the electricity infrastructure we need at a reasonable price, Section 51 requires the utilities (CL&P/UI) to submit a procurement plan for energy and efficiency resources, for review by the Connecticut Energy Advisory Board and the Department of Public Utility Control (DPUC). OCC strongly supports Section 50 of the Act, which would allow the utilities (CL&P/UI) to build small power plants for operation during the summer at traditional, cost-of-service rates. This Section reverses, in part, the prohibition on CL&P/UI ownership of power plants under electricity restructuring, which restructuring policy has been partially responsible for Connecticut's skyrocketing electric rates. Having CL&P/UI build power plants will restore some state control over electricity rates, and mitigate the market power of present power plant owners.

On the downside, Section 92 of the Act ignores the failures of restructuring by continuing to promote and subsidize retail supply choice. Residential customers have shown little interest in choosing alternative retail suppliers, and in fact, retail choice makes little policy sense, because the same electric infrastructure (power plants, transmission lines, etc.) serves all citizens: customers cannot in any physical sense join an "alternate" electric system. Moreover, continuing efforts to push residential customers onto retail suppliers could interfere with the planning efforts in Section 51 of the Act; planning requires a stable base of customers who are on utility standard service. Other portions of the Act would create unreasonable barriers to allowing CL&P and UI to build larger power plants in the



future. If CL&P and UI have the best and most economical proposals for new power plants, then Connecticut should have the complete availability to choose that path. Several of the states that had "restructured" or "deregulated" have either turned back or adopted a hybrid model that allows some ownership of power plants by the traditional utility, and Connecticut should similarly keep this option open in order to restore some state regulatory control over power prices.

***Electric Aggregators in Connecticut:
Minimal Impact for Residential
Customers***

Since the start of electricity restructuring in 1998, Connecticut law has allowed persons or entities to try to gather together customers to create a buying pool for electric generation supply. These persons or entities are called "aggregators," and they are licensed by the DPUC. The thought was that these buying pools would actively participate in electricity markets and aggressively seek lower prices from retail electric suppliers for the members of the pool.

Some nine years after restructuring, a review of the DPUC/Watts New CT web site (<http://www.wattsnewct.com/newsuppliers.html>) revealed that there is exactly one aggregator presently gathering residential customers into a buying pool: Levco Energy. Numerous aggregators are licensed to serve business customers. This is consistent with the situation regarding retail supply and aggregation in most other restructured states: competition has developed somewhat for business customers, but not to any great degree for residential customers.

The reasons for this are well-known: aggregators and retail suppliers prefer to market to high-volume business customers, because it is more economic to do so, uncollectible risks are

more manageable with business customers than for residential customers, some business customers have some unusual usage patterns that a retail supplier or aggregator might be able to find a cheaper supply to meet, etc. In addition to these factors, Connecticut law recently made the cost of CL&P/UI supply for large business customers (now called supplier of last resort service) more costly and volatile on purpose, in order to push such customers onto retail supply. The Connecticut Business & Industry Association and other parties have registered as aggregators to assist business customers with this situation, but appear to be functioning more as agents or "helpers" for business customers in dealing with the market, rather than actually aggregating them into buying pools.

The low amount of activity on the residential aggregation side should not be cause for concern. The skyrocketing electric rates experienced by electric customers are not being caused by a lack of choice of retail suppliers, or the lack of activity by electric aggregators. Rather, such rates are being caused primarily by a lack of sufficient electric infrastructure, poor design of the wholesale electricity markets, market manipulation and rising costs in the underlying fuels (particularly natural gas). Aggressive efforts to promote retail choice, including through aggregation, have either had very limited beneficial effects on residential rates or have backfired. For example, Texas, the State in which Enron was headquartered, is the "poster child" for residential retail choice, and has tried various measures to push customers away from utility service and onto retail supply. The result: much higher rates for Texans than their traditionally regulated neighbors, plus customer complaints about unscrupulous retail supply salesmen on their doorstep.

Aggregators and buying pools can deal with an existing market to try to achieve the best price at a given moment, but aggregators and

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buying pools cannot effectively plan for the long-term power needs for their customers. Power plant development and siting decisions are political decisions made through numerous state and municipal agencies, including the DPUC, the Connecticut Siting Council, the Department of Environmental Protection, municipal zoning and permitting bodies, etc. Recognizing these complications, the Legislature's recent large energy bill, Public Act 07-242, *An Act Concerning Electricity and Energy Efficiency*, re-establishes a robust State planning process for the procurement of power needs, rather than relying on something called the "market" to build sufficient capacity. Splitting up the residential customers into discrete buying pools would likely make such planning efforts less effective. Planning requires a secure, stable counterparty to pay for long-term arrangements. Fragmentation of the State's customers into separate buying pools could eliminate that secure, stable counterparty.

ECMB Helps State Reach #1 Energy Efficiency Rating

OCC is a charter member of the Energy Conservation Management Board (ECMB) which oversees the \$90 million Connecticut Energy Efficiency Fund. A member of the OCC staff has been either Chair or Vice-Chair of the ECMB since 2004, and will continue so into 2008. This year the Connecticut legislature restored money to the fund (approximately \$27 million per year), which previously had been diverted to offset a Connecticut General Fund deficit. Full funding of the ECMB means, essentially, that once again the ratepayers of Connecticut can take full advantage of programs which deliver a four (4) to one (1) benefit/cost ratio.

In its report dated June 2007 entitled "The State Energy Efficiency Scorecard for 2006", the

American Council for an Energy Efficiency Economy, recognized Connecticut as number one (1) in the country for energy efficiency. That success was directly related to the work of the ECMB. All in all, energy efficiency remains the cheapest "energy alternative" and the best way to reduce cost, save resources and help the environment.

Buying Our Electricity: Improving the Process

Connecticut's two electric distribution companies, CL&P and UI, are required to buy power for customers who take Standard Service or Last Resort Service, rather than shopping for competitive generation supply. When the DPUC established the process these companies would use for such purchases, it invited OCC to monitor CL&P's and UI's purchasing performance, to help verify its integrity. OCC accepted that invitation, and to date, we have participated in all eight procurement rounds (5 by CL&P; 3 by UI).

In June, OCC filed comments with the DPUC on lessons learned during the first several months of this procurement exercise. We told the DPUC that this process generally has been successful, and has improved over time. We also offered specific recommendations for better improvement. We asked the DPUC to be more careful in evaluating whether to reject power contracts, since some DPUC actions have upset bidders, and may have raised the prices ratepayers had to pay for Standard Service. Also, OCC suggested two steps UI should take to improve its procurement efforts.

The cost of generation services is the single most important reason why electric rates in Connecticut are so high, and why those rates have risen so dramatically. This is why OCC wants to see that CL&P and UI purchase

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generation services in the most cost-effective manner possible. OCC also believes that many other changes must be put into place, if electric rates are to be reduced in Connecticut (e.g., the development of utility-owned generation, and the expansion of effective efficiency programs). OCC continues to work hard on numerous projects in all of these subject areas.

Currently, the problem of the lack of pro-ration when there are GSC changes has been resolved, and Dominion Retail is now in compliance with the DPUC orders for charging the correct rates.

So You Want a Competitive Electric Supplier? Buyer Beware.

Connecticut residents seeking relief from large utility bills should pay close attention to the terms and conditions of the contracts of competitive suppliers. One should carefully consider whether the competitive supplier will bring real value that you can rely on.

Utility bills are inherently confusing, because there are several different charges. Some of the charges are fixed, while some are variable. This leaves room for manipulation, because most customers do not know the difference, but can only compare the total of their monthly bills.

The OCC, along with the Attorney General's Office (AG), successfully completed settlement negotiations this year in one case involving a competitive supplier. This supplier, Dominion Retail, billed January 2006 rate increases to their customers for their December 2005 usage. Numerous complaints about Dominion Retail's failure to pro-rate the Generation Service Charge (GSC) were received by the Governor's Office, OCC, the AG and the DPUC.

A negotiated settlement between the AG (representing the Department of Consumer Protection) and Dominion Retail resulted in a full refund of \$507,000 to the affected ratepayers, and an additional penalty of \$200,000 levied by the AG.

Settlement Agreement with Yankee Gas Reduces Proposed Rate Increase

On December 29, 2006, Yankee Gas Services Company (Yankee) filed a rate application with the DPUC to increase annual revenues by \$37.2 million, or 8.4% above revenues collected from current rates. Originally the Application proposed to recover, through base rates, approximately \$67.8 million in additional revenues needed to recover costs for the new liquefied natural gas (LNG) facility and the increased costs of providing distribution delivery service. However, Yankee projected that the annual net revenue increase of \$37.2 million was more reflective of its requirements due to expected commodity and pipeline related savings. In filings made during the rate proceeding, Yankee increased its proposed rate increase to \$71.9 million, or \$44.2 million after mitigation.

On May 16, 2007, Yankee, the Prosecutorial Division of the DPUC and the OCC entered into a Settlement Agreement that would decrease the base distribution rate increase down to \$39.3 million, and \$19.4 million after mitigation. The proposed settlement represented over a 56% reduction in the proposed rate increase. The proposed Settlement Agreement would set Yankee's return on equity at 10.1%, increase system integrity related expenditures; and make adjustments to the interruptible target margin, LNG electricity costs and property taxes, fuel related carrying costs, amortization of deferred hardship and environmental remediation costs, costs for a new customer service system and for depreciation.

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On June 29, 2007, the DPUC made adjustments to the proposed Settlement Agreement, approving an increase in base rates after mitigation of \$22.1 million- about 4% above existing rates. The Department's major area of adjustment related to not allowing Yankee to include any portion of the fuel-related carrying costs in the reconciliation of fuel expenses recoverable in the Purchased Gas Adjustment clause. As a result, forecasted increases in carrying costs of purchased gas inventories and working capital were built into base rates.

OCC Applauds DPUC Decision to Terminate Emergency Generation Grant Program

On September 25, 2007, the Department of Public Utility Control (DPUC) terminated a grant program for emergency generators. Under this program, the ratepayers had provided grants to various businesses, municipal entities, etc. to allow them to build diesel-fired generators that would operate only in electric system emergencies. OCC had concerns throughout the grant program that the ratepayers would not receive the predicted electricity cost benefits sought through the grant programs, and OCC has also become increasingly concerned about the potential environmental impacts of having these diesel units operating on the hottest of days, when electric emergencies typically occur. OCC requested that the Department cancel the emergency generation grant program.

Aquarion Water Company Rate Filing

On June 15, 2007, Aquarion Water Company (Aquarion) filed an application with the DPUC to amend its rates. Aquarion is asking for an increase of approximately \$31.9 million, or 27.86% above present revenues. The increase by division is as follows:

	Increase	
	<u>Revenues</u>	<u>Percent</u>
Southern Division – Mystic	\$519,871	20.57
Southern Division – Greenwich	\$4,897,480	22.18
Eastern Division	\$18,222,671	25.10
Western Division	\$7,480,398	47.58
Northern Division	\$820,884	47.80

The primary reasons causing Aquarion's need for rate relief are the investment in infrastructure improvements and equipment added to its rate base, plus the increase in depreciation expense related to those capital investments. All of this investment occurred since Aquarion's last general rate filing. Aquarion is seeking uniform depreciation rates across all its divisions to achieve one-company operations and across-the-board rate uniformity.

The DPUC established a working group to study what should be done about the emergency generation grant program (as well as other issues), and OCC chaired the group. There was general consensus that the emergency generation grant program should be suspended, at least for a while, with a reasonable date selected for the end of the grant program to provide fairness to projects that were already in the pipeline.

The DPUC after reviewing the working group's report and weighing the views of participants, decided to end the emergency generation grant program. OCC applauds this ruling as one in the best interests of ratepayers and the environment.

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The State of Connecticut's Office of Consumer Counsel, located at Ten Franklin Square, New Britain, Connecticut 06051, is an independent state agency authorized by statute to act as the advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public service companies, electric suppliers and persons, and certified intrastate telecommunications service providers.

The Office of Consumer Counsel is authorized to appear in and participate in any regulatory or judicial proceedings, federal or state, in which such interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved.