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March 13, 2007

**BY ELECTRONIC FILING AND
FIRST CLASS MAIL**

Ms. Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 07-01-21 - DPUC Declaratory Ruling Re: Release of Customer
Information Pursuant to Conn. Gen. Stat. 16-245 –
Request for Technical Meeting

Dear Ms. Rickard:

The Retail Energy Supply Association (“RESA”)¹ was granted intervenor status in this proceeding on February 15, 2007. After reviewing the interrogatory responses filed by each electric distribution company (“EDC”), RESA is concerned that an urgent operational issue, the timely and efficient release of ICAP tag data to competitive suppliers, is being eclipsed by the EDCs’ misreading of the scope of Section 16-245o of the General Statutes (“Section 16-245o”). This letter sets forth RESA’s position on these matters and requests that the Department promptly schedule a technical meeting to address the operational issues described herein.

The Need for ICAP Tag Information

Competitive suppliers are serving a rapidly growing number of Connecticut electricity consumers. Many of these customers are commercial or industrial customers being served

¹ RESA member companies include Consolidated Edison Solutions, Inc., Direct Energy Services, LLC, Hess Corporation, Reliant Energy Retail Services, LLC, Sempra Energy Solutions, Strategic Energy, LLC, SUEZ Energy Resources NA, Inc. and U.S. Energy Savings Corp. The opinions expressed in this filing may not represent the views of all members of RESA.

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pursuant to contracts that call for a generation component of price based upon the capacity required to serve the customer's demand. The lack of this capacity information, which is contained in the ICAP tag, poses two problems for competitive suppliers. First, it hinders their ability to establish an accurate price for servicing prospective customers. Second, it precludes the efficient and accurate billing of capacity charges to existing customers. RESA therefore would like to obtain ICAP tag information for individual prospective and existing customers as further discussed below.

Legal Issues/Scope of Proceeding

RESA believes that the ICAP tag information, which simply reflects the customer's demand during one hour of the year, is analogous to a customer's historical electricity usage and, hence, both sets of data should be treated in the same way. To the extent that a supplier seeks ICAP tag information for the purpose of pricing its services to *prospective* customers, RESA has no objection to obtaining the customers' consent, just as it does for historical usage data.² Thus, there is no need for the Department to address whether Section 16-245o requires customer consent under these circumstances, nor does RESA or Constellation NewEnergy, Inc. ("CNE") ask it to do so. Rather, the legal question before the Department is whether Section 16-245o requires competitive suppliers to obtain the consent of their *existing* customers to receive ICAP tag information on their behalf for billing purposes. It clearly does not.

Section 16-245o is entitled "Restrictions on Use of Customer Information for Marketing." The first words of the statute are "To protect a customer's right to privacy from unwanted solicitation" Obtaining ICAP tag information for existing customers is an essential element of billing and has nothing to do with marketing to prospective customers. Instead, it is tantamount to the monthly transfer of kilowatt hour usage from the EDCs to competitive suppliers for billing purposes. Consequently, none of the provisions of Section 16-245o, including, without limitation, the provisions requiring suppliers to pay for software changes, have any applicability to the issue that CNE has brought to the Department.

Even if the Department were to conclude that customer consent is required for release of ICAP tag data for existing customers, that consent is furnished by the fact that a customer has signed a competitive supply agreement that provides for capacity charges based on the customer's demand. For all of the foregoing reasons, the Department should rule that Section 16-245o does not apply to the provision of ICAP tag information for existing customers.

² The current customer release form for historical electricity usage could be easily modified to include the ICAP tag information.

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ICAP tag data is readily available from existing EDC customer data bases. What is lacking, however, is an electronic data interface sufficient to ensure that this data can be reliably and efficiently transferred to competitive suppliers for billing purposes.³ In order to address the technical issues pertaining to this interface, interim solutions and related operational details, the Department should immediately schedule a technical meeting.

Request for technical meeting

From reviewing the interrogatory responses, it is clear that there are a number of operational issues that need to be discussed and could be productively addressed in a technical meeting. For example, how much time and money is required to complete the necessary software modifications? What alternative mechanisms are available to deliver this information in the interim? Are the costs of developing this interface properly within the obligation of an EDC to support customers who choose competitive generation supply? These issues have all been worked out in neighboring jurisdictions, including Massachusetts where this data is routinely supplied efficiently and effectively by the Western Massachusetts Electric Company and other Massachusetts electric distribution companies. Working through these issues to achieve an optimal result that is in the best interest of all stakeholders can best be accomplished by one or more meetings among competitive suppliers, the EDCs, consumer advocates and Department staff.

I certify that a copy hereof has been furnished on this date via first class mail, postage prepaid, to all parties, intervenors and participants of record as evidenced on the Department's service list as of this date. A copy has also been filed with the Department as an electronic web filing and is complete.

Respectfully submitted,

RETAIL ENERGY SUPPLY ASSOCIATION

By: Paul R. McCary (DMIC)
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Its Attorney

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³ RESA presumes that the process currently used by the EDCs to provide the historical usage information of prospective customers would also be used for requests for ICAP tag information of such customers, at least in the near term.