

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL**

DPUC REVIEW OF CONN. AGENCIES : Docket No. 09-01-07
REGS. § 16-245d-1 ET SEQ. : February 20, 2009

COMMENTS OF RETAIL ENERGY SUPPLY ASSOCIATION

In this proceeding, the Department of Public Utility Control (“Department” or “DPUC”) will review and revise Sections 16-245d-1 and 16-245d-2 of the Regulations of Connecticut State Agencies (the “Regulations”), which address: (1) the components and format of electricity bills issued to customers; and (2) the billing relationship between electric distribution companies (“EDCs”) and electric suppliers. In a Notice of Request for Written Comments dated January 16, 2009 (“Notice”), the Department invited the Office of Consumer Counsel, The Connecticut Light and Power Company (“CL&P”), The United Illuminating Company (“UI”) and electric suppliers to comment on the two regulations and to propose language for suggested revisions. The Retail Energy Supply Association (“RESA”) is pleased to submit these comments in response to the Notice.¹

Under the present billing regime, electric suppliers have two options for billing competitive generation charges to their customers, subject to the restrictions discussed in Part II.B below. Specifically, suppliers can: (1) issue their own bills for generation charges based on usage data provided by the EDC (herein called “Dual Billing”); or (2) rely on the EDC to bill generation charges on their behalf based on rates and other

¹ RESA’s members include Commerce Energy, Inc; Consolidated Edison Solutions, Inc; Direct Energy Services, LLC; Gexa Energy; Hess Corporation; Integrys Energy Services, Inc.; Liberty Power Corp.; Reliant Energy Retail Services, LLC; Sempra Energy Solutions LLC; SUEZ Energy Resources NA, Inc.; and US Energy Savings Corp. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

billing data provided by the supplier (herein called "Consolidated Billing"). When Consolidated Billing is used, the EDCs are required to purchase the supplier's accounts receivable in an amount equal to the generation charges billed by the EDC on the supplier's behalf. With this introduction in mind, RESA responds in Part I to the specific question set forth in the Notice and offers additional recommendations in Part II to further amend the Section 16-245d-2 Regulations. RESA proposes specific language to implement its suggested amendments in Exhibit A attached hereto.

I. RESA'S RESPONSE TO THE SPECIFIC QUESTION SET FORTH IN THE NOTICE

The Notice specifically invites comments on the following question that pertains to the Dual Billing option:

"What, if anything, should be required of [EDCs] that is not already addressed in the current regulations to make suppliers' billing of customers more efficient or beneficial to customers (for example, should the [EDCs] be required to provide estimates for all rate classes, and should they also be required to transfer billing data to the suppliers no later than 3 days after the meter reads)?"²

RESA maintains that the EDCs should be required to provide to electric suppliers: (1) actual usage data within three business days after the regularly-scheduled monthly meter reads;³ and (2) estimated usage if actual usage cannot be provided within such three-day period. RESA further recommends that other obligations of the EDCs under the Dual Billing system be clarified in the Regulations.

A. RESA Member Companies Continue to Experience Problems with CL&P's Usage Data.

² Notice, p. 1.

³ On February 13, 2009, UI filed a letter in this docket indicating that it would be willing to make such a commitment.

The DPUC's request to establish this docket on its own motion acknowledges that the ability of electric suppliers to issue prompt, accurate bills to their customers is dependent on the receipt of timely and correct usage data from the EDCs. It further noted that CL&P has fallen short in this area:

It has come to the Department's attention through Docket No. 08-02-06 (CL&P Billing Error) that (1) CL&P does not consistently provide accurate customer data to electric suppliers in a timely manner, and therefore, electric suppliers cannot bill customers accurately or timely, and (2) CL&P's policy is not to provide estimated usage data for accounts in Classes 30 and higher, so electric suppliers are left with absolutely no data with which to bill customers when CL&P fails to provide actual data. The regs are currently silent on these issues. The regs may need to be amended to set requirements for discos to follow in their provision of customer data to electric suppliers.⁴

Since the conclusion of Docket No. 08-02-06, RESA member companies have continued to experience problems in obtaining timely and accurate usage data from CL&P apparently due, in part, to the company's implementation of a new customer billing system. Some suppliers have reported delays of up to five months. In addition, CL&P still does not provide electric suppliers with estimated usage when actual usage is unavailable. These twin deficiencies on CL&P's part have required RESA member companies to spend many hours preparing estimated bills for their customers. The problem has become so acute that one supplier recently issued 160 estimated invoices for a single billing cycle. CL&P also has not timely responded to usage inquiries and other data requests from suppliers and has been sluggish in resolving supplier-identified errors in the utility's computer systems.

⁴ Request to Establish New Docket on DPUC's Own Motion (Nov. 26, 2008), filed on January 9, 2009 in the instant docket.

B. The Current Regulations and Billing Services Agreement Impose no Obligations on the EDCs.

Section 16-245d-2 in its present form does not impose any specific obligations on EDCs with regard to their provision of usage data to electric suppliers. Instead, it focuses almost exclusively on the method for allocating customer payments to EDC and electric supplier charges under the system that pre-dated the purchase of receivable ("POR") programs that were adopted by the EDCs after the Regulations were promulgated. CL&P's Billing Services Agreement and Terms and Conditions for Electric Suppliers also are silent with regard to its obligations to electric suppliers. Indeed, CL&P conceded that point in a letter filed with the DPUC on August 29, 2008 in Docket No. 08-02-06. It wrote: "There are no performance guarantees for providing billing and usage to suppliers stipulated in either our trading partner agreement or in our Terms and Conditions for Electric Suppliers."⁵

C. The Regulations Should Be Revised to Clarify the Obligations of the EDCs and the Rights of Electric Suppliers Under the Dual Billing System.

Section 16-245d-2 should be revised to clearly articulate the rights and obligations of the parties under the Dual Billing system. Most notably, the Regulations should require the EDCs to:

- Provide usage data to electric suppliers within three business days after a regularly-scheduled meter read date;
- Provide estimated usage data to electric suppliers if the EDC cannot provide actual usage data for any reason;

⁵ CL&P Letter to Nicholas E. Neeley (Aug. 29, 2008), Docket No. 08-02-06 (responding to the following inquiry from the DPUC: "Identify the performance guarantees with respect to billing under which CL&P operates with Constellation and other suppliers. Separately explain whether CL&P is in compliance with those terms").

- Promptly send any usage adjustments (*i.e.* cancels/rebills) to electric suppliers upon discovery of an error and identify such adjustments clearly in the transmittal; and
- Be responsive to inquiries from suppliers regarding usage data and other billing matters.

Requiring EDCs to provide estimated usage data to electric suppliers makes sense from both an efficiency and customer service perspective. If actual usage data is not available, the EDCs must develop a usage estimate in order to bill customers for volumetric delivery charges. For electric suppliers to duplicate that effort by developing their own independent usage estimates is wasteful and potentially confusing to customers. Even if duplicating the EDCs' efforts was acceptable, which it is not, suppliers are often handicapped in their ability to develop estimates for new customers because they may have limited historical usage data. By contrast, the EDC has full access to all customers' historical usage and can develop sound estimates with an eye toward variations in the customers' electricity consumption profile. Placing the obligation to develop usage estimates on the EDCs also is beneficial to customers because it allows the delivery charges and competitive generation charges included in the customer's bill to be based on the same kilowatt-hour estimate.

II. OTHER RECOMMENDED REVISIONS TO SECTION 16-245d-2

In addition to the amendments described in Part I above, RESA recommends other revisions to Section 16-245d-2 of the Regulations as summarized below.

A. Definitions.

Section 16-245d-2 would benefit from the inclusion of a standard set of definitions, particularly if its content is expanded as recommended by RESA.

B. Use of Consolidated Billing and Dual Billing Options.

The present Regulations do not specify when an electric supplier may use the Consolidated Billing and Dual Billing Options. As a matter of course, however, electric suppliers have always had the option to use Consolidated Billing for their customers, but this billing method was less attractive prior to the EDCs' implementation of POR. With regard to Dual Billing, the DPUC clarified the applicable rules in two companion orders issued to CL&P and UI in December 2006. In the December 8, 2006 Decision in Docket No. 03-07-02RE09, the Department ordered CL&P to allow suppliers to directly bill commercial and industrial customers in its territory that have a maximum demand of 50 kilowatts or more.⁶ A similar order was issued to UI in the December 19, 2006 Decision in Docket No. 05-06-04RE02.⁷ Based on these rules, RESA has added proposed language to Section 16-245d-2, as set forth in Exhibit A, to clarify when suppliers have the right to use Consolidated Billing and Dual Billing for their customers.

C. Roles and Responsibilities of EDCs and Electric Suppliers Under the Consolidated Billing Option Should be Clarified.

As with Dual Billing, the present Regulations do not set forth the roles and responsibilities of EDCs and electric suppliers under the Consolidated Billing option. RESA therefore proposes language in Exhibit A to fill that gap. RESA's additions include: (1) a supplier obligation to provide timely billing information to the EDCs in a rate ready or bill ready format; and (2) an EDC obligation to provide supplier reports that detail billings and other information regarding customers billed by the EDCs in order to allow the supplier to verify its POR payments and manage its book of business.

⁶ Decision (Dec. 8, 2006), p. 11, Docket No. 03-07-02RE09, *Application of The Connecticut Light and Power Company to Amend its Rate Schedules – 2007 Rates*.

⁷ Decision (Dec. 19, 2006), pp. 33-34, Docket No. 05-06-04RE02, *Application of The United Illuminating Company to Increase its Rates and Charges – 2007 Rates and Terms and Conditions*.

D. POR.

UI has long purchased electric suppliers' accounts receivables pertaining to competitive generation charges billed and collected by UI under its Consolidated Billing system. In Docket No. 05-08-05RE02, the Department ordered CL&P to follow UI's lead and implement a POR program for all customer classes effective as of October 10, 2007.⁸ RESA proposes to add the EDCs' POR obligations to Section 16-245d-2 of the Regulations in the form set forth in Exhibit A.

E. Electronic Business Transactions Standards Working Group.

Robust use of electronic business transactions ("EBT") plays an important role in achieving a successful EDC-Supplier billing relationship. Connecticut once had an EBT Standards Working Group that developed initial business rules, electronic protocols and data formats for the exchange of electronic transactions between EDCs and suppliers. This initial work, however, was performed before the retail market took hold in Connecticut, and the group has been inactive for sometime. RESA recommends that the Department appoint a new EBT Working Group to be comprised of representatives from the DPUC, the EDCs and the electric supplier community, whose mission would be to refine and expand the EBT standards, consistent with the revised Regulations.

III. THE DEPARTMENT SHOULD ORDER THE EDCS TO REVISE THEIR BILLING SERVICES AGREEMENT AND TERMS AND CONDITIONS.

The revised Regulations, as proposed by RESA, should set the foundation for an improved billing relationship between the EDCs and electric suppliers but more is needed. Additional details regarding the billing practices and the rights and obligations

⁸ Decision (Oct. 10, 2007), pp. 7-11, Docket No. 05-08-05RE02, *DPUC Investigation Into the Process by Which Customers Can Choose an Electric Supplier When Initiating Electric Service – Amended Referral Program*.

of the EDCs and suppliers should be set forth in the Billing Services Agreement ("BSA") executed by the parties and the Terms and Conditions for Electric Suppliers ("Terms and Conditions") that are incorporated by reference into the BSA. The BSA should include appropriate penalties if the parties fail to perform their stated contractual obligations.

After the Department adopts amendments to Section 16-245d-2, it should order the EDCs to revise their form BSAs and Terms and Conditions to comport with and build on the new Regulations and file these documents with the Department for approval. Since electric suppliers are the counterparties to the BSA, the Department should allow suppliers to comment on the revised BSA and the Terms and Conditions incorporated therein in a second phase of this proceeding.

Conclusion

RESA appreciates the opportunity to provide these written comments and urges the Department to: (1) adopt the revisions to Section 16-245d-2 of the Regulations substantially in the form proposed by RESA; (2) appoint a new EBT standards working group to improve the electronic exchange of transactional data between EDCs and electric suppliers; (3) order the EDCs to file revised BSAs and Terms and Conditions following the Department's issuance of amended Regulations; and (4) afford electric suppliers an opportunity to comment on the revised BSA and Terms and Conditions before they are approved in final form.

Respectfully submitted,

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