

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

Application of The Connecticut Light & Power Company to Amend its Rate Schedules – Public Act 07-242, Seasonal Rates, Non-Generation Related Time-of-Use Pricing and Related Rate Design Issues	:	Docket No. 03-07-02RE10
	:	
	:	
	:	
	:	
	:	October 18, 2007

REPLY BRIEF OF RETAIL ENERGY SUPPLY ASSOCIATION

Introduction

On October 12, 2007, Briefs were filed with the Department of Public Utility Control (“Department”) in the above-captioned docket by the Connecticut Industrial Energy Consumers (“CIEC”), UTC Power, Mr. Richard G. Mackowiak, The Connecticut Light and Power Company (“CL&P” or “Company”), the Office of Consumer Counsel (“OCC”) and the Retail Energy Supply Association (“RESA”).¹ RESA expresses no opinion with regard to the positions taken by the CIEC, UTC Power and Mr. Mackowiak in their respective Briefs. Rather, RESA submits this Reply Brief principally to address the assertions of CL&P and the OCC that the Company’s voluntary peak pricing (“VPP”) proposal complies with Section 99 of Public Act 07-242, *An Act Concerning Electricity and Energy Efficiency* (“P.A. 07-242” or “Act”). It does not.

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; Strategic Energy, 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.

Section 99 of the Act requires the electric distribution companies (“EDCs”) to implement a voluntary critical peak pricing (“CPP”) or real-time pricing (“RTP”) tariff “for each customer class to become effective on or before January 1, 2008.” CL&P’s VPP proposal fails to comport with that mandate for two reasons. First, it would not be available to all customers as required by the Act, but, instead, would be limited to customers with maximum demands in excess of 1,000 kilowatts (“kW”).² Second, the Company’s VPP design is neither a CPP nor an RTP product. It is a hybrid model that charges customers an average day-ahead LMP price during an eight-hour block each weekday and the regular SOLR service rate during all other hours.³ Even if the Department were to conclude that the VPP design can be construed to be a CPP or an RTP product, it should reject CL&P’s proposal in favor of voluntary, pure real-time pricing for the reasons described herein and in RESA’s Brief.

In its Brief, RESA also urged the Department to implement mandatory RTP for customers on supplier of last resort (“SOLR”) service in this rate-design proceeding because it would yield many salutary benefits for electricity consumers in the region.⁴ RESA reiterates that recommendation in this Reply Brief and incorporates by reference herein Section I of its Brief, which cites numerous studies by leading economists around the nation espousing the benefits of RTP. It is important to note, however, that should the Department decline to implement mandatory RTP, then the voluntary offerings made by the EDCs pursuant to Section 99 of the Act will become the only means by which customers can gain experience with dynamic pricing. At the same time, RESA

² CL&P Letter to Louise E. Rickard (July 2, 2007), p.1 (filed as undocketed correspondence).

³ CL&P VPP Proposal (Mar. 15, 2007), p. 3, Docket No. 05-10-03.

⁴ Brief of RESA (Oct. 12, 2007), pp. 4-12, Docket No. 03-07-02RE10.

notes that the Legislature clearly intended for all customers to have the opportunity to participate in the voluntary offerings contemplated by Section 99 of the Act.⁵ For these reasons, it is crucial for the Department to strictly adhere to the requirements of Section 99 and implement RTP as it is preferable to CPP and CL&P's VPP proposal, the latter of which would be made available only to a subgroup of customers.

RESA further recommends that the Department adopt mandatory seasonal pricing for standard service customers by establishing a monthly price for the generation service charge ("GSC"), consistent with the approach used for SOLR service customers. Monthly pricing would provide more accurate price signals to standard service customers who choose not to participate in the voluntary RTP program and would be easy to implement. Customers would then have the proper incentive to reduce consumption during the highest peak months when the power grid is strained.

Argument

II. CL&P'S VPP PROPOSAL DOES NOT CONFORM TO THE ACT.

A. Overview of CL&P's VPP Proposal.

CL&P proposes to satisfy Section 99 of the Act by expanding its March 15, 2007 voluntary VPP proposal for SOLR service customers.⁶ Under that design, participating customers would be charged an *average* day-ahead LMP price for the eight-hour peak period of noon to 8 p.m. *each weekday* of the year.⁷ In all other hours, the customer would be charged the otherwise applicable SOLR service rate.⁸ It is

⁵ See P.A. 07-242, § 99 (stating that RTP or CPP should be available to "each customer class").

⁶ CL&P Letter to Louise E. Rickard (July 2, 2007), p.1 (filed as undocketed correspondence).

⁷ CL&P VPP Proposal (Mar. 15, 2007), p. 3, Docket No. 05-10-03.

⁸ *Id.*

highly questionable whether or not charging the SOLR rate for the other sixteen hours is appropriate since the rate for such hours is based on blended power prices. In addition, CL&P claims that its VPP would be available to all customer classes, but it limits eligibility to customers with maximum demands in excess of 1,000 kilowatts (“kW”).⁹

B. The Eligibility Restriction of the VPP Violates Section 99 of the Act.

CL&P does not explain the rationale for its proposed 1,000 kW eligibility restriction, but it stated at the September 24, 2007 hearing that installation of interval meters for residential and small commercial and industrial (“C&I”) customers who wish to participate in the VPP program would be costly. The Legislature, however, recognized that the dynamic pricing structures dictated by the Act will require additional investment in metering technologies. In Section 98 of the Act, it directed the EDCs to submit a plan to deploy an advanced metering system that is “capable of tracking hourly consumption to support proactive customer pricing signals through innovative rate design, such as time-of-day or real-time pricing of electric service for all customer classes.” It did not state that the EDCs could limit its obligation to provide voluntary RTP or CPP to all customers based on its views that the meter upgrades associated with such offerings are too expensive. In the event that CL&P’s proposed 1,000 kW eligibility restriction is rooted in deficiencies in its existing billing system, the Department should direct the Company to implement a temporary solution pending installation of its new system, C2.

⁹ CL&P Letter to Louise E. Rickard (July 2, 2007), p.1 (filed as undocketed correspondence).

OCC claims that the 1,000 kW eligibility restriction recommended by CL&P is sensible because “only large or sophisticated customers would be interested in VPP.”¹⁰ The OCC goes on to state that these customers could simply self-register with the ISO New England, Inc. (“ISO-NE”) to purchase supplies directly in the wholesale market, and “[t]his simple approach would allow compliance with the Act.”¹¹ This suggestion ignores all of the administrative costs and burdens required to become a direct customer of the ISO-NE. More importantly, however, the OCC is attempting to substitute its policy judgments for those of the Legislature. Section 99 of the Act makes clear that the Legislature intended for all customer classes to have the opportunity to participate in either a CPP or an RTP product that is administered by the EDCs.¹²

C. CL&P’s VPP Is Not a CPP or an RTP Product.

CL&P does not state whether its VPP proposal is intended to be a CPP or an RTP product. However, during the September 24, 2007 hearing in this proceeding, the Department directed CL&P to submit Late-Filed Exhibit 5 (“LFE 5”) to define its understanding of CPP and RTP. The definitions subsequently provided by the Company and the common usage of those terms in the industry reveal that the Company’s proposed VPP is neither a CPP nor an RTP product.

In LFE 5, CL&P defined CPP as a “pricing structure whereby certain hours on *certain days* where the system is experiencing high peak demand are subject to higher *hourly energy prices* that reflect market conditions for peak generation and delivery

¹⁰ Brief of the OCC (Oct. 12, 2007), p. 8, Docket No. 03-07-02RE10.

¹¹ *Id.*

¹² *See supra* note 5.

during peak demand periods.”¹³ Although CL&P’s definition comports with typical CPP offerings in the industry, it does not describe its proposed VPP. Under the VPP model, customers would be charged a higher price that would be set daily based on the *average* locational marginal price (“LMP”) in the ISO-NE energy market during the peak hours of *every weekday in the year*.

CL&P defined RTP in LFE 5 as follows:

Energy prices that are set for a specific time period on an advanced or forward basis and that may change according to price changes in the generation spot market. Prices paid for energy consumed during these periods are typically established and known to customers a day ahead (“day-ahead pricing”) or an hour ahead (“hour-ahead pricing”) in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period, or reducing consumption overall.¹⁴

CL&P’s definition, for which the Company failed to provide a source, does not describe its VPP proposal. Pricing under that proposal would not reflect the hourly price changes in the generation market during either on-peak or off-peak periods. It also would not provide the proper incentives for customers to shift their electricity usage to a lower cost period because they would not derive the full savings of lower LMP prices during that period.

Most regulators and utilities define RTP in a more straightforward fashion that recognizes the hallmark of that rate design – that is pricing on a “real-time” basis that changes hourly (or more frequently) to mirror wholesale market prices. For example, the staff of the Federal Energy Regulatory Commission in its 2007 report entitled

¹³ CL&P Response to Late-Filed Exhibit Q-LF-005 (Oct. 2, 2007), p. 1, Docket No. 03-07-02RE10 (emphasis added).

¹⁴ *Id.*

“Demand Response and Advanced Metering,” defined RTP as follows: “A retail rate in which the price for electricity typically fluctuates hourly reflecting changes in the wholesale price of electricity.”¹⁵ Similarly, the Consolidated Edison Company of New York defines its voluntary Day-Ahead RTP program as follows: “Under Day-Ahead Hourly Pricing, customers pay hourly retail rates that reflect the hourly changes in wholesale energy rates.”¹⁶

At the October 4, 2007 Late-Filed Exhibit hearing, CL&P appeared to recognize that its proposed VPP is not a true RTP product. It nonetheless justified its proposal on the ground that its VPP allows Connecticut to gain some experience with dynamic pricing before exposing ratepayers to the severe impacts of RTP. CL&P should not be allowed to substitute its paternalistic views for the mandate of the Legislature, nor should the assumption be made that RTP always fosters “severe” results. RTP has, at times, resulted in lower overall prices than prevailing utility rates.

D. RTP is preferable to CPP.

Both RTP and CPP can provide incentives for customers to reduce their electricity usage during critical peak days. RTP, however, yields the potential for greater price savings for customers because it allows them to: (1) fully enjoy lower electricity prices during off-peak hours; and (2) avoid the risk premiums inherent in fixed-priced offerings. Thus, the Department should order CL&P to implement RTP to comply with Section 99 of the Act.

¹⁵ FERC Staff Report, *Demand Response & Advanced Metering* (Sept. 2007), Appendix A-8, available at <http://www.ferc.gov/legal/staff-reports/09-07-demand-response.pdf>.

¹⁶ See ConEdison website description of its Day-Ahead RTP at http://www.coned.com/sales/business/vol_time_pricing.asp.

II. THE DEPARTMENT SHOULD IMPLEMENT SEASONAL RATES FOR STANDARD SERVICE CUSTOMERS BY SETTING A MONTHLY GSC PRICE.

Section 16-243n(c) of the General Statutes requires EDCs to implement mandatory seasonal rates for all customers effective April 1, 2007. The Department extended the April 1, 2007 implementation date for standard service customers to July 2008 in its December 21, 2006 Decision in Docket No. 05-10-03.¹⁷ The Department further stated that, upon implementation, seasonal rates for such customers should reflect four pricing periods: summer, winter and two shoulder periods.¹⁸

In its Brief in this proceeding, CL&P noted that wholesale bids for both standard service and SOLR service supplies contain monthly prices.¹⁹ Thus, the Company could implement seasonal GSC rates for standard service customers in a manner similar to the approach used for SOLR customers – *i.e.* by setting monthly GSC rates. This technique would be preferable to establishing rates for four seasons as it would avoid the need to allocate the prices of supply contracts that span two seasons, as discussed by CL&P in its Brief.²⁰ It would also comport with the standard service statute so long as the monthly prices were established no more frequently than quarterly.²¹ Thus, the Department should require CL&P to implement mandatory seasonal rates for standard service customers by setting a monthly GSC price.

¹⁷ Decision (Dec. 21, 2006), p. 25, Docket No. 05-10-03.

¹⁸ *Id.* at 24.

¹⁹ Brief of CL&P (Oct. 12, 2007), p. 8, Docket No. 03-07-02RE10.

²⁰ *Id.*

²¹ See Conn. Gen. Stat. § 16-244c(c)(2) (“Not later than October 1, 2006, and periodically . . . , but not more often than every calendar quarter, the Department of Public Utility Control shall establish the standard service price . . .”).

Conclusion

RESA respectfully requests that the Department direct CL&P to implement a voluntary RTP offering to comply with Section 99 of the Act and adopt monthly GSC pricing for standard service customers. RESA further requests that the Department implement mandatory RTP for SOLR service customers for the reasons described in its Brief.

Respectfully submitted,

RETAIL ENERGY SUPPLY
ASSOCIATION

By: Paul R. McCary (DMC)
Paul R. McCary
Diana Kleefeld

Murtha Cullina LLP
CityPlace I, 185 Asylum Street
Hartford, Connecticut 06103-3469
(860) 240-6000
Its Attorneys