

280 Trumbull Street  
Hartford, CT 06103-3597  
Main (860) 275-8200  
Fax (860) 275-8299  
jmiranda@rc.com  
Direct (860) 275-8227

Also admitted in District of  
Columbia and Massachusetts

*Via Electronic Filing and First Class Mail*

February 7, 2013

Kimberley J. Santopietro  
Executive Secretary  
Public Utilities Regulatory Authority  
10 Franklin Square  
New Britain, CT 06051

Re: **Docket No. 12-05-04: PURA Review of Electric Bill Charges and Costs**

Dear Ms. Santopietro:

Enclosed please find the Joint Brief of Dominion Retail, Inc. and Retail Energy Supply Association in connection with the above-referenced matter.

I certify that a copy hereof has been sent to all participants of record as reflected on the Public Utilities Regulatory Authority's (Authority) service list as of this date. A copy has also been filed with the Authority as an electronic web filing and is complete.

Please do not hesitate to contact me if you have any questions or require additional information. Thank you.

Very truly yours,



Joey Lee Miranda

Enclosure

Copy to: Service List



Law Offices

BOSTON

PROVIDENCE

HARTFORD

NEW LONDON

STAMFORD

WHITE PLAINS

NEW YORK CITY

ALBANY

SARASOTA

[www.rc.com](http://www.rc.com)

STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

PURA REVIEW OF ELECTRIC BILL : DOCKET NO. 12-05-04  
CHARGES AND COSTS :  
: FEBRUARY 7, 2013

JOINT BRIEF OF  
DOMINION RETAIL, INC. AND  
RETAIL ENERGY SUPPLY ASSOCIATION

Dominion Retail, Inc. (“Dominion”) and the Retail Energy Supply Association<sup>1</sup> (“RESA”) (collectively, the “Suppliers”) hereby submit this brief in the above-captioned proceeding. For the reasons discussed more fully below, the Public Utilities Regulatory Authority (“Authority”) should order the electric distribution companies (“EDCs”) to properly include all generation-related costs in the bypassable portion of rates and to harmonize the recovery of the various costs such that each EDC is collecting the same costs within the same rate components.

BACKGROUND

In 1998, as part of restructuring, the Authority<sup>2</sup> allocated the various costs incurred by the EDCs to three categories: generation, transmission and distribution.<sup>3</sup> As part of that decision,

---

<sup>1</sup> RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P.. 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.

<sup>2</sup> At the time of the decision, the Authority was known as the Department of Public Utility Control (“DPUC”).

the Authority also indicated that “[c]ompetitive generation pricing is a component of each utility’s fully embedded costs and will be identified and broken out in subsequent proceedings.”<sup>4</sup>

When the Transitional Standard Offer (“TSO”) period was set to begin, the Authority further refined these cost allocations.<sup>5</sup> At that same time, the Authority also established the Bypassable Federally Mandated Congestion Charges (“BFMCC”) rate and the Non-Bypassable Federally Mandated Congestion Charges (“NBFMCC”) rate and approved the recovery of certain costs within each.<sup>6</sup>

After the start of Standard Service and Last Resort Service, the Authority once again undertook a review of the appropriate allocation of costs between bypassable and non-bypassable rates.<sup>7</sup> As part of that proceeding, the EDCs entered into a settlement with the Office of Consumer Counsel pursuant to which additional costs were allocated from the non-bypassable to the bypassable portion of rates.<sup>8</sup>

On May 9, 2012, the Authority, on its own motion, opened this proceeding to identify and review the various charges on the EDCs’ electric bills and the costs passed through each

---

<sup>3</sup> See, generally, Docket No. 97-01-15, *DPUC Review of Electric Companies Cost of Service and Unbundled Tariffs*, Final Decision, dated July 29, 1998 (“Allocation Decision”).

<sup>4</sup> *Id.* at 1.

<sup>5</sup> See Docket No. 03-07-15, *Establishment of The United Illuminating Company’s Transitional Standard Offer*, Final Decision, dated December 18, 2003 (“UI TSO Decision”); Docket No. 03-07-01, *Application of The Connecticut Light and Power Company to Establish the Transitional Standard Offer*, Final Decision, dated December 19, 2003 (“CL&P TSO Decision”).

<sup>6</sup> *Id.*; Docket No. 04-03-19, *DPUC Design of Adjustment Clauses Necessary for Transitional Standard Offer*, Final Decision, dated November 24, 2004 (“Adjustment Clause Decision”).

<sup>7</sup> See, generally, Docket 97-01-15RE02, *DPUC Review of Electric Companies Cost of Service and Unbundled Tariffs - Further Unbundling* (“Further Unbundling Proceeding”).

<sup>8</sup> *Id.*, Proposed Settlement of Issues to the Department of Public Utility Control, dated January 16, 2007; see also Docket 07-07-01, *Application of The Connecticut Light and Power Company to Amend Rate Schedules*, Final Decision, dated January 28, 2008, at 148 (implementing the re-allocation set forth in the settlement).

charge.<sup>9</sup> On June 14, 2012, the Authority issued a Notice of Request for Written Comments offering interested persons an opportunity to submit written comments on specified topics, including any comments that would assist the Authority in its investigation and review.<sup>10</sup> The Suppliers submitted comments in response to the Notice.<sup>11</sup> Subsequently, the various participants, including the Suppliers, responded to interrogatories issued by the Authority. The Suppliers now hereby submit their brief in accordance with the schedule established by the Authority.

### ARGUMENT

Although the Authority has undertaken efforts in the past to appropriately allocate costs between the bypassable and non-bypassable portion of rates, certain generation-related costs are still captured in the EDCs' non-bypassable rates. As part of this proceeding, the Authority should continue to adhere to cost causation principles and require the EDCs to appropriately reflect the *full* cost of providing supply to end use customers by maintaining an accurate allocation of costs between generation (i.e., bypassable) and distribution (i.e., non-bypassable) rates.

#### **I. ALL GENERATION-RELATED COSTS SHOULD BE ALLOCATED TO THE BYPASSABLE PORTION OF RATES.**

The decision of which costs are properly included in the EDCs' bypassable rates and which are properly included in the EDCs' non-bypassable rates should be based on cost

---

<sup>9</sup> See Request to Establish a New Docket on PURA's Own Motion, approved May 9, 2012.

<sup>10</sup> See Notice of Request for Written Comments, dated June 14, 2012 ("Notice"), at 1.

<sup>11</sup> See Joint Comments of Dominion Retail, Inc. and Retail Energy Supply Association, dated July 10, 2012 ("Suppliers' Comments").

causation principles.<sup>12</sup> In particular, as the Authority has recognized, generation-related costs should be recovered in the bypassable portion of rates.<sup>13</sup> Indeed, an improper allocation of generation-related costs to non-bypassable rates is patently unfair to customers who choose competitive supply because they are paying duplicate costs and subsidizing the supply costs of those customers who choose to stay with the EDC supply option.<sup>14</sup> Further, because such an improper allocation results in “hidden” costs, customers are unable to identify the true value of supplier competitive offerings and are more likely to forego the competitive supply option; thereby, inhibiting the retail competitive electric market in Connecticut. Conversely, when costs are appropriately allocated between the EDCs’ bypassable and non-bypassable rates, consumers can properly evaluate the cost of generation services and avoid paying costs for which they are not responsible.<sup>15</sup>

The EDCs essentially incur three types of costs to provide generation services to their customers: (a) wholesale costs; (b) procurement and energy provision costs; and (c) administrative costs. The EDCs’ wholesale supply costs are billed through ISO New England (“ISO-NE”). These ISO-NE costs can be identified as either billed to electrical load (i.e., billed based on energy) or billed to transmission (i.e., only billed to transmission customers). As The

---

<sup>12</sup> See, e.g., Docket No. 05-08-05, *DPUC Investigation into the Process by which Customers Can Choose an Electric Supplier When Initiating Electric Service*, Final Decision, dated May 10, 2006, at 19 (noting that bad debt cost allocation at that time was contrary to cost causation principles and concluding that generation-related bad debt costs should be collected through the generation portion of customer bills).

<sup>13</sup> Docket 10-08-01, *Semi-Annual Reconciliation of the Connecticut Light and Power Company’s and The United Illuminating Company’s Federally Mandated Congestion Costs and Generation Services Charge*, Final Decision, dated January 6, 2011, at 5 (reaffirming that “it is most appropriate to recover expenses that are generation related in the GSC rate.”).

<sup>14</sup> See Suppliers’ Comments, at 3-4, 6; see also Docket 05-06-04, *Application of The United Illuminating Company to Increase its Rates and Charges*, Final Decision, dated January 27, 2006, at 125-27; Docket 97-01-15RE01, *DPUC Review of Electric Companies Cost of Service and Unbundling Tariffs – Unbundled Bills and SBC*, Final Decision, dated April 30, 1999, at 1.

<sup>15</sup> See Suppliers’ Comments, at 6.

United Illuminating Company (“UI”) pointed out “the specific allocation of costs by ISO-NE is . . . a key indicator as to whether a cost is properly recovered in the BFMCC or the NBFMCC line item. In this way, cost recovery is aligned with cost allocation and EDC, and supplier generation services rates are properly comparable.”<sup>16</sup> If the costs are billed to electrical load, those costs are generation-related and should be bypassable when a customer selects a third-party supplier.

The following costs are currently billed by ISO-NE to electrical load:<sup>17</sup>

- Energy costs, including costs associated with congestion and losses;
- Capacity costs, including costs associated with Installed Capacity (“ICAP”) and the Forward Capacity Market (“FCM”);
- Costs for ancillary services related to the supply of energy and capacity (e.g., spinning reserves a/k/a operating reserves, Real Time Reserves, etc.);
- Daily Reliability Must Run (“RMR”) charges not associated with any agreements (a/k/a RMR uplift);
- Regulation (a/k/a automatic generation control);
- Locational Forward Reserve (“LFR”) costs;
- Credits for Financial Transmission Rights (“FTR”) auction revenues (a/k/a Auction Revenue Rights);
- ISO Schedule 2 costs;<sup>18</sup>
- ISO Schedule 3 costs;<sup>19</sup>
- ISO credit insurance costs;
- ISO participant default costs;
- GIS administration costs;<sup>20</sup> and

---

<sup>16</sup> UI Response to Interrogatory RA-019; *see also* UI Response to Interrogatory RA-034.

<sup>17</sup> Suppliers’ Response to Interrogatory RA-14, at 2-3.

<sup>18</sup> *See* CL&P Response to Interrogatory RA-030 (admitting that these costs are billed on energy and FTR basis and that, at least a portion of these costs, “should theoretically be included in a bypassable charge.”).

<sup>19</sup> *Id.* (“The Company agrees with the Suppliers that charges for ISO Schedule 3 and GIS Administration are billed to participants with load obligation and are energy related.”).

- ISO Load Response costs.<sup>21</sup>

UI already recovers many of these costs in the bypassable portion of its rates.<sup>22</sup>

However, UI still collects ISO Load Response Program costs through the NBFMCC.<sup>23</sup> Further, despite recognizing that the costs included in the NBFMCC should “bear *no* relationship to the amount of load being served either directly or indirectly by CL&P,”<sup>24</sup> The Connecticut Light and Power Company (“CL&P”) still collects the following costs that are currently billed by ISO-NE to electrical load through its NBFMCC: ISO Schedule 2 costs, ISO Schedule 3 costs, ISO Load Response Program costs, ISO credit insurance costs, ISO participant default costs and GIS administration costs.<sup>25</sup> Because these costs are billed based on energy, they are directly avoided on a dollar for dollar basis by the EDCs when a customer chooses a third-party supplier. Accordingly, the Authority should order the EDCs to reallocate these improperly collected costs to the bypassable portion of their rates.

In addition to these ISO-NE charges, the EDCs incur the following additional costs associated with the procurement and provision of Standard Service and Last Resort Service:

- Energy procurement costs, portfolio management costs and incentives;
- Hedging costs, including costs associated with forward hedges placed at the highest point in the market;
- Net charges associated with the acquisition of FTRs; and

---

<sup>20</sup> *Id.* (same).

<sup>21</sup> *Id.* (admitting that “suppliers are receiving the charges for this program.”).

<sup>22</sup> CL&P and UI Response to Interrogatory RA-046, at 3 (indicating that UI collects ISO Schedule 2, ISO Schedule 3, and GIS Cost/ISO Miscellaneous Costs through the bypassable portion of rates).

<sup>23</sup> *Id.*; UI Response to Interrogatory RA-021.

<sup>24</sup> CL&P Response to Interrogatory RA-006(c)-(d) (emphasis added).

<sup>25</sup> See CL&P Response to Interrogatory RA-008, at 2-3; CL&P and UI Response to Interrogatory RA-046, at 3; Suppliers’ Response to Interrogatory RA-15, at 2.

- Renewable Portfolio Standard (“RPS”) costs.<sup>26</sup>

All of these costs can also be readily identified and easily quantified. Thus, to the extent they are not already, the Authority should require the EDCs to directly recover all of these costs on a dollar for dollar basis in their bypassable rates.

In addition, although UI collects the costs associated with administering its power supply agreements in its bypassable rates,<sup>27</sup> CL&P admits that it does *not* collect the costs incurred to procure and administer Standard Service or Last Resort Service contracts in the bypassable portion of rates.<sup>28</sup> In attempt to justify this failure, CL&P asserts that it does not track these costs.<sup>29</sup> However, CL&P also indicated that it “utilizes specific activity codes and charge accounting units (CAUs) which assures (sic) that all costs are assigned to their proper rate component . . . .”<sup>30</sup> Accordingly, like UI, CL&P should be required to include “the cost of all wholesale power contracts and the cost of personnel involved with procuring Standard Service and Last Resort Service in the Generation Services Charge (GSC).”<sup>31</sup>

Further, UI collects Alternative Transitional Standard Offer (“ATSO”) administrative costs through the non-bypassable portion of its rates.<sup>32</sup> However, the Authority ordered “that costs incurred in support of the ATSO shall be recoverable *via the Generation Service*

---

<sup>26</sup> Suppliers’ Response to Interrogatory RA-14, at 3-4.

<sup>27</sup> UI Response to Interrogatory RA-018.

<sup>28</sup> CL&P Response to Interrogatory RA-022(b).

<sup>29</sup> *Id.*

<sup>30</sup> CL&P Response to Interrogatory RA-011(e).

<sup>31</sup> UI Response to Interrogatory RA-018.

<sup>32</sup> UI Response to Interrogatory RA-047, at 2.



**Charge.**<sup>33</sup> Thus, UI is improperly collecting these costs in the non-bypassable portion of rates. Accordingly, the Authority should order UI to reallocate these improperly collected costs to the bypassable portion of its rates.

It also appears that the following costs are currently being (or are expected to be) improperly recovered in the non-bypassable portion of the EDCs' rates:

- Costs associated with the use of market products power procured through contracts with two Department of Energy and Environmental Protection selected renewable energy projects to the extent used to serve Standard Service or Last Resort Service load,<sup>34</sup>
- Costs associated with the self-managed portion of the CL&P Standard Service portfolio, including without limitation, portfolio management and hedging costs and collateral, working capital and/or financing costs.<sup>35</sup>

Because all of these costs are generation-related, they should be collected through the bypassable portion of rates. Accordingly, the Authority should order the EDCs to reallocate these improperly collected costs to the bypassable portion of their rates.

In an attempt to avoid allocating certain generation-related costs to the bypassable portion of rates, CL&P asserts that some of the costs that it improperly collects through the non-bypassable portion of its rates are “de minimis”<sup>36</sup> However, the actual dollar amount of these

---

<sup>33</sup> CL&P Response to RA-050(a) (emphasis added) (citing Docket No. 03-07-16, *Investigation of Alternative Transitional Standard Offer Services for United Illuminating and CL&P Customers*, Final Decision, dated October 20, 2004, at 16).

<sup>34</sup> Suppliers' Response to Interrogatory RA-15, at 2; see also Docket 12-05-13, *Application for Approval of Renewable Power Purchase Agreements Totaling 10 Megawatts Resulting from Department of Energy and Environmental Protection's December 2011 Requests for Proposals Pursuant to Section 127 of P.A. 11-80*, Final Decision, dated November 21, 2012, at 7 (authorizing the collection of these costs in the non-bypassable portion of rates even if the contracts are used to serve Standard Service and/or Last Resort Service load).

<sup>35</sup> Suppliers' Response to Interrogatory RA-15, at 2; see also Docket 12-06-02, *Request for PURA Review of Power Procurement Plan*, Final Decision, dated October 12, 2012 (authorizing CL&P to engage in self-management of 20% of its Standard Service load).

<sup>36</sup> See, e.g., CL&P Response to Interrogatory RA-022(b); CL&P Response to Interrogatory RA-030.

costs is irrelevant to the analysis of whether they are generation-related and, thus, following cost causation principles, should be included in the EDCs' generation rates.

Furthermore, the de minimis standard fails to account for the aggregate impact of these individual costs. Indeed, although each of these costs *individually* may be considered de minimis, when aggregated, the *total* cost may not be de minimis. Moreover, what the EDCs consider de minimis may actually have a significant impact on retail suppliers who operate their businesses in a competitive market in which even the smallest pricing differential can make the difference in a customer's choice of electric supplier. Thus, the Authority should reject any type of de minimis standard and, consistent with cost causation principles, require the EDCs to recover all generation-related costs on a dollar for dollar basis in the EDCs' bypassable rates.

## **II. EACH EDC SHOULD COLLECT THE SAME COSTS WITHIN THE SAME RATE COMPONENTS.**

CL&P and UI identified the various charges that are collected in each of the rate components that appear on customer bills.<sup>37</sup> Because the two companies presented the information in different ways, it was difficult to determine whether both EDCs are collecting all of the same costs within the same rate components.<sup>38</sup> Further, to the extent that both EDCs appeared to provide comparable information, the labels assigned to the various cost components were not all the same.<sup>39</sup>

The apparent inconsistencies between the EDCs in the costs collected, the labeling of those costs and the rate component within which each cost is collected create confusion and

---

<sup>37</sup> See, generally, Correspondence from CL&P, dated July 10, 2012 ("CL&P Comments"); Written Comments of The United Illuminating Company, dated July 10, 2012 ("UI Comments").

<sup>38</sup> Compare UI Comments, Exhibit C-1 (Bypassable FMCC Expenses by Type) with CL&P Comments, Exhibit A, Page 4 of 9 (Generation Service Charge *and* Bypassable Federally-Mandated Congestion Charges).

<sup>39</sup> Compare UI Comments, Exhibit C-2 (Non-Bypassable FMCC Expenses by Type) with CL&P Comments, Exhibit A, Page 5 of 9 (Non-Bypassable Federally-Mandated Congestion Charges).

make it difficult for ratepayers and interested stakeholders to garner any understanding of the various costs that comprise each of the EDCs' rates.<sup>40</sup>

During the course of the proceeding, the EDCs agreed to provide for a uniform labeling of costs.<sup>41</sup> However, they did not agree to collect all of these costs through the same rate components. In particular, the following discrepancies exist:

- CL&P collects ISO Schedule 2, ISO Schedule 3 and GIS Costs/ISO Miscellaneous through the NBFMCC while UI collects these same costs in the bypassable portion of rates;<sup>42</sup>
- UI collects power supply costs in the GSC while CL&P collects these costs through the BFMCC;<sup>43</sup> and
- UI Collects ARR Revenue in BFMCC while CL&P collects this through the GSC.<sup>44</sup>

Accordingly, the Authority should require the EDCs to harmonize the recovery of these various costs such that each EDC is collecting the same costs within the same rate components.

Moreover, there also appear to be charges that are collected by one EDC but not the other. In particular, UI collects retail access costs through its GSC but CL&P does not appear to collect this charge.<sup>45</sup> Further, CL&P collects Operating Reserves, Regulation, ISO ICAP, Capacity for TSO, Broker Fees for TSO, Non Contract Qualifying Facilities, TSO Consulting Fees, Rate Base on Prepaid Regulatory Assets and Congestion Risk Mitigation in the bypassable portion of rates<sup>46</sup> but "UI does not have *or does not recover* these costs items through its FMCC

---

<sup>40</sup> Suppliers' Response to Interrogatory RA-13, at 4.

<sup>41</sup> *See, generally*, CL&P and UI Response to Interrogatory RA-046

<sup>42</sup> *Id.* at 3.

<sup>43</sup> Suppliers' Response to Interrogatory RA-13, at 2.

<sup>44</sup> *Id.* at 3.

<sup>45</sup> *Id.* at 2.

<sup>46</sup> *Id.* at 3.

reconciliation.”<sup>47</sup> To the extent UI does incur any of these costs, they should all be collected in the same bypassable rate component as is used by CL&P.

In addition, the Authority should ensure that each of the costs included in each rate component capture all applicable costs. For instance, although both EDCs include Regulatory Commission Expense as a bypassable charge, it is not clear if that expense includes assessments imposed by both the Authority *and* the Connecticut Siting Council (“Council”). Pursuant to Connecticut General Statutes section 16-50v, the Council assesses its expenses “among those persons having gross *revenue from the sale of electric power at retail* in the state in excess of one hundred thousand dollars during the preceding calendar year, in the proportion which the gross revenue of each such person bears to the aggregate gross revenues of all such persons.”<sup>48</sup> Since the Council’s assessment is based on the sale of electricity, these costs are related to the provision of energy. Accordingly, the EDCs should directly recover all of these costs on a dollar for dollar basis in their bypassable rates.

## CONCLUSION

For the reasons discussed more fully above, the Authority should order the EDCs to properly include all generation-related costs in the bypassable portion of rates and to harmonize the recovery of the various costs such that each EDC is collecting the same costs within the same rate components.

---

<sup>47</sup> CL&P and UI Response to Interrogatory RA-046, at 2 (emphasis added).

<sup>48</sup> Conn. Gen. Stat. § 16-50v(b)(1) (emphasis added).

Respectfully submitted,  
DOMINION RETAIL, INC.  
RETAIL ENERGY SUPPLY ASSOCIATION



By:

\_\_\_\_\_  
Joey Lee Miranda, Esq.  
Robinson & Cole LLP  
280 Trumbull Street  
Hartford, CT 06103  
Phone: (860) 275-8200  
Fax: (860) 275-8299  
E-mail: [jmiranda@rc.com](mailto:jmiranda@rc.com)

**CERTIFICATION**

I hereby certify that a copy of the foregoing was sent via electronic mail or first-class mail, postage pre-paid to all participants of record, on this 7th day of February 2013.

A handwritten signature in black ink that reads "Joey Lee Miranda". The signature is written in a cursive style with a large initial "JL" and a long horizontal stroke at the end.

---

Joey Lee Miranda