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Via Electronic Filing and Hand Delivery

March 1, 2019

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority
10 Franklin Square
New Britain, CT 06051

Re: **Docket No. 18-06-02: Review of Feasibility, Costs, and Benefits of Placing Certain Customers on Standard Service Pursuant to Conn. Gen. Stat. § 16-245o(m)**

Dear Mr. Gaudiosi:

Enclosed please find the Retail Energy Supply Association's Opposition to the Objection of The United Illuminating Company and The Connecticut Light and Power Company d/b/a Eversource Energy to Retail Energy Supply Association's First Set of Interrogatories in connection with the above-referenced proceeding.

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.

Sincerely,



Brian E. Calabrese

Enclosure

Copy to: Service List

STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

REVIEW OF FEASIBILITY, COSTS, AND : DOCKET NO. 18-06-02
BENEFITS OF PLACING CERTAIN :
CUSTOMERS ON STANDARD SERVICE :
PURSUANT TO CONN. GEN. STAT. § 16- :
245O(M) : MARCH 1, 2019

**RETAIL ENERGY SUPPLY ASSOCIATION’S OPPOSITION TO THE OBJECTION
OF THE UNITED ILLUMINATING COMPANY AND THE CONNECTICUT LIGHT
AND POWER COMPANY d/b/a EVERSOURCE ENERGY TO RETAIL ENERGY
SUPPLY ASSOCIATION’S
FIRST SET OF INTERROGATORIES**

The Retail Energy Supply Association (“RESA”)¹ hereby files its Opposition to the Objection of The United Illuminating Company and The Connecticut Light and Power Company d/b/a Eversource Energy (together, the “EDCs”) to RESA’s First Set of Interrogatories to the EDCs.²

BACKGROUND

On June 4, 2018, the Public Utilities Regulatory Authority (the “Authority”) initiated the instant proceeding to review the feasibility, costs, and benefits of transferring to Standard Service all customers referred to in Connecticut General Statutes section 16-245o(m).³ As part of its review, the Authority indicated that it intends to explore several areas relating to Connecticut General Statutes section 16-245o(m), including:

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² Motion No. 10, Objection of The United Illuminating Company and The Connecticut Light and Power dba Eversource Energy to the Retail Energy Supply Association’s First Set of Interrogatories to the Electric Distribution Companies (Feb. 22, 2019) (“EDC Objection”).

³ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

- trends in § 16-245o(m) accounts, including the conditions driving and impacting those trends;
- the number of § 16-245o(m) accounts serviced by a supplier;
- the amount that §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on Standard Service;
- the impact of placing § 16-245o(m) accounts on Standard Service;
- any nonmonetary value that the § 16-245o(m) accounts have received while being serviced by a supplier; and
- any other information that will assist the Authority in reviewing the feasibility, costs, and benefits of possibly switching § 16-245o(m) accounts to Standard Service.⁴

On February 14, 2019, RESA issued its First Set of Interrogatories to the EDCs.⁵ The RESA Interrogatories inquire about the cost components of EDC residential generation service,⁶ seek historical information about EDC residential generation service over- and under-recoveries,⁷ and request historical information about Standard Service rates⁸ and Standard Service procurements.⁹

On February 22, 2019, the EDCs filed the EDC Objection.¹⁰ In the objection, the EDCs argued that the RESA Interrogatories seek the production of information that is irrelevant to the instant proceeding and are overly broad and burdensome.¹¹ RESA hereby files its opposition to the EDC Objection.

ARGUMENT

As set forth more fully below, the RESA Interrogatories are relevant because they seek information directly related to the issues that the Authority intends to explore in the instant proceeding. In addition, the RESA Interrogatories seek information from a reasonable time

⁴ *See id.*

⁵ *See* Retail Energy Supply Association’s First Set of Interrogatories to the Electric Distribution Companies (Feb. 14, 2019) (“RESA Interrogatories”).

⁶ *See* Interrogatory RESA-EDC-1 through Interrogatory RESA-EDC-5.

⁷ *See* Interrogatory RESA-EDC-6 through Interrogatory RESA-EDC-7.

⁸ *See* Interrogatory RESA-EDC-8.

⁹ *See* Interrogatory RESA-EDC-9.

¹⁰ EDC Objection.

¹¹ EDC Objection, at 5-6.

period and, thus, are not overly broad or burdensome. Accordingly, the Authority should direct the EDCs to respond fully to the RESA Interrogatories.

I. LEGAL STANDARD

The Authority generally adheres to the following standard respecting the scope of discovery in proceedings:

[T]he department and other parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in a pending proceeding. Further, it is not grounds for objection that the information or documents sought through discovery will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.¹²

Evidence is relevant if it “has a logical tendency to aid the trier in the determination of an issue.”¹³ “One fact is relevant to another if in the common course of events, the existence of one, alone or with other facts, renders the existence of the other more certain or more probable.”¹⁴ In fact, “[a]ll that is required is that the evidence tend to support a relevant fact even to a slight degree”¹⁵ Indeed, in the instant proceeding, the Authority has deemed evidence relevant, even when it was not expressly mentioned among the areas to be explored in the Authority’s Notice of Proceeding, because it provides a “basis for comparison” that “may be helpful to the Authority in determining the best result.”¹⁶

With respect to the discovery burden of the interrogatories, there is no automatic or universally applicable cut-off date prior to which discovery would be irrelevant or unduly

¹² *Office of Consumer Counsel v. Department of Public Utility Control*, 44 Conn. Supp. 21, 27 (1994) (quoting August 20, 1992 Authority ruling setting forth Authority discovery procedures). At the time of the decision, the Authority was known as the Department of Public Utility Control (“Department”).

¹³ *State v. Pagan*, 158 Conn. App. 620, 634 (2015).

¹⁴ *State v. Colon*, 272 Conn. 106, 200 (2004).

¹⁵ *Id.* at 201.

¹⁶ See Motion No. 5 Ruling (Nov. 21, 2018), at 2 (“Although this docket addresses returning only hardship customers to standard service, a basis for comparison regarding such customers may be helpful to the Authority in determining the best result.”).

burdensome.¹⁷ “How far discovery should go back . . . depends on the type of discovery sought and what information a discovery request seeks to procure.”¹⁸ To determine whether information sought in discovery is unduly burdensome requires an inquiry into: (i) whether the information is material; and, (ii) if it is, whether the age of the material negates the claim of materiality.¹⁹

II. THE RESA INTERROGATORIES SEEK RELEVANT INFORMATION.

The Authority has determined that the instant proceeding deals with, among other things, the costs of switching accounts to Standard Service.²⁰ Further, the Authority has noted that a necessary part of this inquiry involves comparing costs paid by these accounts when enrolled in competitive supply products to the costs “the same accounts would have paid if on standard service.”²¹ Thus, the information sought by the RESA Interrogatories is relevant because it is directly related to the issues that the Authority intends to investigate in the instant proceeding.

A. The Information Sought by Interrogatory RESA-EDC-1 Through Interrogatory RESA-EDC-3 Is Relevant.

Interrogatory RESA-EDC-1 through Interrogatory RESA-EDC-3 seek information about the cost components of EDC residential generation service.²² Specifically, Interrogatory RESA-EDC-1 requests that the EDCs identify the components of rates in which specified costs are collected.²³ Interrogatory RESA-EDC-2 asks whether other costs are collected in the generation

¹⁷ *Bershtein v. Rogol*, Docket No. CV 93-0343958-S (3), 1996 Conn. Super. LEXIS 499 (Feb. 23, 1996), *3.

¹⁸ *Id.*; see also *Hartford County Sheriff's Dep't v. Blumenthal*, 47 Conn. Supp. 447, 474-75 (2001) (evaluating burdensomeness on the bases of the period of time in question and the nature of the documents sought).

¹⁹ *Bershtein v. Rogol*, Docket No. CV 93-0343958-S (3), 1996 Conn. Super. LEXIS 499 (Feb. 23, 1996), *3-4.

²⁰ See Revised Notice of Proceeding (Feb. 7, 2019), at 1 (“The Authority will solicit and receive information on the feasibility, *costs*, and benefits of switching the accounts detailed in Conn. Gen. Stat. §16-245o(m) to standard service.”) (emphasis added).

²¹ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

²² See Interrogatory RESA-EDC-1 through Interrogatory RESA-EDC-3.

²³ See Interrogatory RESA-EDC-1. These costs are: 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);

supply rates charged to residential customers and that any such costs be identified.²⁴

Interrogatory RESA-EDC-3 asks, for each of the costs in RESA-EDC-1 and RESA-EDC-2, whether the EDCs receive an associated return or incentive.²⁵ For costs for which there is an associated return or incentive, Interrogatory RESA-EDC-3 also asks how the amount of that return or incentive is calculated and in which component of residential rates (e.g., Generation Service Charge, FMCC Delivery Charge, etc.) each return or incentive is collected.²⁶

The information sought by Interrogatories RESA-EDC-1 to RESA-EDC-3 is relevant because it will allow a meaningful comparison of costs paid by § 16-245o(m) accounts when enrolled in competitive supply products to the costs “the same accounts would have paid if on standard service.”²⁷

For this comparison to be meaningful, it is essential to know to what extent, if any, Standard Service differs from the competitive supply products to which it will be compared. If Standard Service contains more, or fewer, or different, elements, than the competitive supply products, a comparison of Standard Service and those competitive supply products must account for the differences. For example, because competitive suppliers must recover all of their costs through the supply price they charge customers, if Standard Service does not include all of the costs that the EDCs incur to provide generation supply to customers, a meaningful comparison would need to account for that difference. In order for the parties and the Authority to

ISO Schedule 2 costs; ISO Schedule 3 costs; ISO credit insurance costs; ISO participant default costs; NEPOOL GIS costs; Load Response costs; Demand Response costs; energy procurement and portfolio management costs; working capital associated with energy procurement activities; carrying costs associated with energy procurement activities; power supply collateral costs; hedging costs; net charges associated with the acquisition of FTRs; Renewable Portfolio Standard (“RPS”) compliance costs, including without limitation, renewable energy credit (“REC”) costs and alternative compliance payments (“ACPs”); Regulatory Commission Expenses and Assessments; uncollectibles; Consulting Fees associated with energy procurement activities; costs of bilateral contracts associated with energy supply; and Personnel, administrative and other miscellaneous expenses associated with energy procurement activities that are not otherwise captured above. *See* Interrogatory RESA-EDC-1.

²⁴ *See* Interrogatory RESA-EDC-2.

²⁵ *See* Interrogatory RESA-EDC-3.

²⁶ *See id.*

²⁷ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

understand if and to what extent such differences exist, information about the EDCs' various supply related costs and where they are recovered is necessary. Interrogatories RESA-EDC-1 to RESA-EDC-3 request information specifically intended to determine in what component(s) of their rates the EDCs recover costs to provide generation supply to Standard Service customers. This information is necessary to ensure that the Authority's comparison of "the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service"²⁸ is meaningful. Accordingly, the information is relevant to this proceeding.

B. The Information Sought by Interrogatory RESA-EDC-4 and Interrogatory RESA-EDC-5 Is Relevant.

Interrogatories RESA-EDC-4 and RESA-EDC-5 seek information about whether the costs identified in Interrogatories RESA-EDC-1 and RESA-EDC-2 are based on actual costs or forecasted or estimated costs. Specifically, Interrogatory RESA EDC-4 asks, for each of the costs in Interrogatories RESA-EDC-1 and RESA-EDC-2, whether they are collected based on actual costs or based on forecasts or estimates that are later reconciled.²⁹ Interrogatory RESA-EDC-5 asks, for each of the costs in RESA-EDC-1 and RESA-EDC-2 that are based on forecasts or estimates that are later reconciled, in what components of rates (e.g., Generation Service Charge, FMCC Delivery Charge, etc.) those reconciliations/true-ups are collected from residential customers.³⁰

This information is relevant because it is needed to ensure that the Authority's comparison of "the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service"³¹ is meaningful. Unlike electric suppliers, the EDCs are able to reconcile their under- and over-recoveries and collect or credit those amounts

²⁸ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

²⁹ See Interrogatory RESA-EDC-4.

³⁰ See Interrogatory RESA-EDC-5.

³¹ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

to customers in subsequent periods. As a result, the Standard Service rates in any given period do not accurately reflect the costs of providing Standard Service to customers during that period. An accurate comparison of supplier prices to the Standard Service rates must account for these differences. Accordingly, to ensure that the Authority's comparison of "the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service"³² is meaningful, it must understand and account for differences in the manner in which electric suppliers and the EDCs recover the costs to provide generation service. Interrogatories RESA-EDC-4 through RESA-EDC-5 specifically request information about the forecasts and estimates that are subject to reconciliation.³³ Thus, the information sought is relevant and material to this proceeding.

C. The Information Sought by Interrogatory RESA-EDC-6 and Interrogatory RESA-EDC-7 Is Relevant.

Interrogatories RESA-EDC-6 and RESA-EDC-7 seek information about the EDCs' historical over- and under-collections. Specifically, Interrogatory RESA-EDC-6 requests, beginning with 2008, for each year, broken down for the periods January-June and July-December, the amount of any over-collection or under-collection of costs recovered in the supply portion of rates.³⁴ Interrogatory RESA-EDC-7 requests, for each of the amounts identified in RESA-EDC-6, the period of time each over- or under- collection was recovered from or credited to (as the case may be) customers.³⁵

Like the information requested in Interrogatories RESA-EDC 4-and RESA-EDC-5 about the use of forecasts and estimates in current rates, this information sought by Interrogatories RESA-EDC 6 and RESA EDC-7 is relevant because it is needed to ensure that the Authority's

³² Revised Notice of Proceeding (Feb. 7, 2019), at 1.

³³ See Interrogatory RESA-EDC-4 through Interrogatory RESA-EDC-5.

³⁴ See Interrogatory RESA-EDC-6.

³⁵ See Interrogatory RESA-EDC-7.

comparison of “the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service”³⁶ is meaningful. As noted, unlike electric suppliers, the EDCs are able to reconcile their under- and over-recoveries and collect or credit those amounts to customers in subsequent periods. As a result, the Standard Service rates in any given historical period do not accurately reflect the costs of providing Standard Service to customers during that period. An accurate comparison of supplier prices to the Standard Service rates must account for these differences. Accordingly, to ensure that the Authority’s comparison of “the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service”³⁷ is meaningful, it must understand and account for differences in the manner in which electric suppliers and the EDCs have recovered the costs to provide generation service. Interrogatories RESA-EDC-6 through RESA-EDC-7 specifically request information about these over- and under-recovered amounts.³⁸ Thus, the information sought is relevant and material to this proceeding.

D. The Information Sought by Interrogatory RESA-EDC-8 Is Relevant.

Interrogatory RESA-EDC-8 requests, beginning with 2008, for each year, broken down for the periods January-June and July-December, the Standard Service rates by rate class (e.g., Rate 1, Rate R, etc.) charged to residential customers.³⁹ This information is necessary for comparing “the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service”⁴⁰ because it consists of the actual rates used to determine the amounts that these accounts would have paid on Standard Service. Therefore, this information is relevant and material to the instant docket.

³⁶ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

³⁷ *Id.*

³⁸ See Interrogatory RESA-EDC-6 through Interrogatory RESA-EDC-7.

³⁹ See Interrogatory RESA-EDC-8.

⁴⁰ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

E. The Information Sought by Interrogatory RESA-EDC-9 Is Relevant.

Interrogatory RESA-EDC-9 requests, beginning with 2008, for each year, broken down for the periods January-June and July-December, the dates on which the procurement(s) to supply residential customers during those periods were conducted and, if there were multiple procurements, what percentage of load was procured during each.⁴¹ This information will enable a meaningful comparison of “the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service.”⁴² The dates on which procurements occurred and the percentage of load procured on those dates affect the cost to supply residential customers. For example, procurements conducted in proximity to extreme weather events may reflect higher costs than procurements conducted at other times. Accordingly, to have a complete view of the costs of Standard Service, which would be borne by any §16-245o(m) accounts transferred to Standard Service, it is necessary to know these dates and the percentage of load procured on these dates. Therefore, the information sought by Interrogatory RESA-EDC-9 is relevant and material to the instant proceeding.

F. The EDCs’ Assertions About the Relevance of the Information Sought by the RESA Interrogatories Are Incorrect.

The EDCs support their argument that the RESA Interrogatories are not relevant to the instant proceeding by asserting that this proceeding “is not a general inquiry or audit of the EDCs [sic] reconciliation of its [sic] power procurement costs or other billing components, which is performed annually in the EDCs’ reconciliation dockets.”⁴³ However, consideration of information sought in the RESA Interrogatories in other proceeding does not mean that this information is irrelevant to the instant docket. As demonstrated above, the information sought

⁴¹ See Interrogatory RESA-EDC-9.

⁴² Revised Notice of Proceeding (Feb. 7, 2019), at 1.

⁴³ EDC Objection, at 5.

by the RESA Interrogatories is relevant to the instant docket because it is needed for a meaningful comparison of “the amount §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service.”⁴⁴

III. THE RESA INTERROGATORIES ARE NOT OVERLY BROAD OR BURDENSOME.

The EDCs assert that the RESA Interrogatories are overly broad and burdensome.⁴⁵ In support of this assertion, the EDCs argue that “RESA seeks a tremendous amount of information across a wide range of costs, which would require the [EDCs] to reconcile 10 years of data” and that taking the effort to provide this information would be “highly unreasonable in light of the scope of this docket and the overly broad nature of the discovery.”⁴⁶

In light of the scope of the Authority’s inquiry, the RESA Interrogatories are not overly broad or burdensome. The RESA Interrogatories seek a complete view of the costs of switching customers to Standard Service by asking about (i) the cost components for which customers will be responsible if switched to Standard Service; (ii) historical over-/under-collection data; (iii) historical Standard Service rates; and (iv) historical procurement information.⁴⁷ As demonstrated above, the information sought by the RESA Interrogatories is proportional and material because it directly implicates the topics that the Authority indicated would be explored in the instant proceeding.

The EDCs cite the time period for which the RESA Interrogatories request information and the effort needed to prepare responses in arguing that these interrogatories are overly broad and burdensome.⁴⁸ However, the EDCs’ argument is without merit.

⁴⁴ Revised Notice of Proceeding (Feb. 7, 2019), at 1.

⁴⁵ See EDC Objection, at 6.

⁴⁶ See *id.*

⁴⁷ See, generally, RESA Interrogatories.

⁴⁸ See EDC Objection, at 6.

As an initial matter, Interrogatory RESA-EDC-1 through Interrogatory RESA-EDC-5 do not ask for historical information from specified time periods. Rather, they deal with elements of the EDCs' *current* rates.⁴⁹ These interrogatories ask about basic features of EDC rates, such as what costs particular rates recover and whether EDCs earn a return on any costs. Gathering this information should not present difficulties for the EDCs or require undue effort. Indeed, the EDCs may have gathered this information for their annual reconciliation dockets⁵⁰ or other rate proceedings. Thus, it should not take significant effort for the EDCs to respond to Interrogatories RESA-EDC-1 through Interrogatory RESA-EDC-5. Therefore, these interrogatories are not overly broad or burdensome.⁵¹

Interrogatories RESA-EDC-6 through RESA-EDC-9 are also not overly broad or burdensome. These interrogatories request historical data for the period from the inception of Standard Service (i.e., from 2008 to the present). This time period and the efforts involved in responding to the RESA Interrogatories are reasonable in light of the scope of the instant proceeding, which includes “trends in § 16-245o(m) accounts, including the conditions driving and impacting those trends” and “the amount that §16-245o(m) accounts have paid versus the amount that the same accounts would have paid if on standard service.”⁵² Further, certain of the information requested by RESA-EDC-6 through RESA-EDC-9, such as Standard Service rate information as the EDCs acknowledge,⁵³ has been already gathered by the EDCs in connection with their Standard

⁴⁹ See Interrogatory RESA-EDC-1 through Interrogatory RESA-EDC-5.

⁵⁰ See, generally, Docket 18-03-01, *PURA Annual Review of the Rate Adjustment Mechanisms of The Connecticut Light and Power Company*; Docket No. 18-03-02, *PURA Annual Review of the Rate Adjustment Mechanisms of The United Illuminating Company*.

⁵¹ See *Hartford County Sheriff's Dep't*, 47 Conn. Supp. at 474-75 (concluding that requested production was not unduly burdensome when the information would *already* have been compiled for another purpose).

⁵² Revised Notice of Proceeding (Feb. 7, 2019), at 1.

⁵³ See EDC Objection, at 4 (“RESA also seeks the EDCs’ *publicly filed and available* standard service rates for the past 10 years.”) (emphasis added). Standard Service rates do not automatically become part of the evidentiary

Service procurement and rate proceedings.⁵⁴ Accordingly, the EDCs should be able to produce such information with relative ease. Thus, the information is not unduly burdensome.⁵⁵

CONCLUSION

For the reasons set forth above, the Authority should issue a ruling rejecting the EDC Objection and directing the EDCs to respond fully to the RESA Interrogatories.

Respectfully Submitted,
RETAIL ENERGY SUPPLY
ASSOCIATION

By: 

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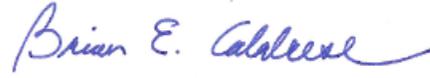
record simply by virtue of being publicly filed and accessible in other dockets. As discussed above, this information is material and relevant to the instant docket and is a necessary component of the evidentiary record in the instant docket.

⁵⁴ See, e.g., Docket No. 18-01-01, *Administrative Proceeding to Review The Connecticut Light and Power Company's Standard Service and Supplier of Last Resort Service 2018 Procurement Results and Rates*; Docket No. 18-01-02, *Administrative Proceeding to Review The United Illuminating Company's Standard Service and Supplier of Last Resort Service 2018 Procurement Results and Rates*.

⁵⁵ See *Hartford County Sheriff's Dep't*, 47 Conn. Supp. at 474-75 (concluding that requested production was not unduly burdensome when the information would *already* have been compiled for another purpose).

CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants of record on this
1st day of March 2019.



Brian E. Calabrese