

JOEY LEE MIRANDA

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

January 4, 2022

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

Re: Docket No. 21-11-01: Annual Report to the Legislature – The State of Electric Competition

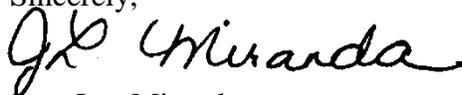
Dear Mr. Gaudiosi:

Attached please find the Retail Energy Supply Association's Motion for Participant Status and Objection to Interrogatory EOE-1 in connection with the above-referenced proceeding.

I certify that a copy of this filing has been sent to all participants of record as reflected on the Public Utilities Regulatory Authority's ("PURA's") service list. In accordance with PURA's instructions, I am filing "only an electronic copy through the PURA Web Filing System."¹

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

Sincerely,



Joey Lee Miranda

Attachments

Copy to: Service List

¹ See Fifth Ruling on Temporarily Suspending Filing Paper Copies (Jun. 19, 2020).

STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

ANNUAL REPORT TO THE : DOCKET NO. 21-11-01
LEGISLATURE – THE STATE OF :
ELECTRIC COMPETITION : JANUARY 4, 2022

**RETAIL ENERGY SUPPLY ASSOCIATION’S
OBJECTION TO INTERROGATORY EOE-1**

The Retail Energy Supply Association (“RESA”)¹ hereby objects to Interrogatory EOE-1² and moves the Public Utilities Regulatory Authority (the “Authority”) for a ruling relieving electric suppliers of any obligation to respond to the Interrogatory.

BACKGROUND

The Authority opened the instant docket to prepare a report to fulfill its obligations to report to the General Assembly on the state of electric competition pursuant to Connecticut General Statutes sections 16-245x(a) and 16-245y(c).³ On December 7, 2021, the Office of Education, Outreach, and Enforcement (“EOE”) issued the Interrogatory to all licensed electric suppliers.⁴ The Interrogatory requested that each supplier, using the monthly compliance data provided in Docket No. 06-10-22, provide the zip codes and the number of customers served within each zip code associated with each residential rate that it charged from January 1, 2021

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 Interrogatory EOE-1 (Dec. 7, 2021) (the “Interrogatory”).

³ Request to Establish a New Docket on PURA’s Own Motion (Nov. 3, 2021) (“Docket Initiation Form”).

⁴ See Interrogatory.

through November 30, 2021.⁵ Responses to the Interrogatory are due on January 14, 2022.⁶

RESA now hereby objects to the Interrogatory.

LEGAL STANDARD

The Authority has generally recognized that, in order to be discoverable, the information sought must be relevant or material to the proceeding.⁷ Thus, if the information requested is not relevant or material, it is objectionable.⁸ “Relevant evidence” means evidence having any tendency to make the existence of any fact that is material to the determination of the proceeding more probable or less probable than it would be without the evidence.⁹ Evidence is material when it is offered to prove a fact directly in issue or a fact probative of a matter in issue.¹⁰ Thus, the Authority generally adheres to the following standard respecting the scope of discovery in proceedings: “[P]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in a pending proceeding.”¹¹

ARGUMENT

The Interrogatory is overly broad and unduly burdensome. Further, the Interrogatory is immaterial and irrelevant to the instant proceeding. As the Authority specified, “[t]he purpose of this docket is to prepare a report to fulfill [the Authority’s] reporting obligations” under Connecticut General Statutes sections 16-245x(a) and 16-245y(c).¹² The Interrogatory, however,

⁵ See Interrogatory.

⁶ See *id.*

⁷ Cf. Conn. Agencies Regs. §16-1-38(a) (authorizing the exclusion of “irrelevant, immaterial or unduly repetitious evidence” in contested cases).

⁸ *Id.*

⁹ Conn. Code Evid. §4-1; see also *State v. Pagan*, 158 Conn. App. 620, 634 (2015) (noting that evidence is relevant if it “has a logical tendency to aid the trier in the determination of an issue”).

¹⁰ *State v. Estrella*, 277 Conn. 458, 484 n.17 (2006).

¹¹ *Office of Consumer Counsel v. Department of Pub. Util. 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.

¹² Docket Initiation Form.

seeks information beyond that required to be reported to the legislature. Indeed, if information about residential prices charged by zip code and the number of supplier customers per price per zip code were material or relevant to the required reports, the Authority would have included this information in its prior reports to the legislature; however, it has not.¹³ Thus, the information requested is immaterial and irrelevant. Accordingly, for the reasons set forth below, the Authority should issue a ruling determining that the Interrogatory is irrelevant and immaterial, directing suppliers not to respond to it, and, to the extent that any suppliers have filed responses, striking those responses from the record.

I. THE INTERROGATORY IS OVERLY BROAD AND UNDULY BURDENSOME

RESA objects to the Interrogatory because it is overly broad and unduly burdensome. As a practical matter, suppliers may not be able to provide the specific information that the Interrogatory requests. The Interrogatory asks: “*Using the monthly compliance data provided in Docket No. 06-10-22*, please provide the zip codes and the number of customers served within each zip code associated with each residential rate charged by your company from January 1, 2021 through November 30, 2021,” in a specified format.¹⁴ Suppliers do not have a generally viable way of using the electric distribution company (“EDC”) price data submitted in Docket No. 06-10-22 to derive the zip codes and number of customer per zip code to match each reported price. As a result, suppliers cannot use the EDC data to provide the requested information. Because the EDCs have the billing and service addresses of all customers to whom they issue bills, however, the EDCs should be able to provide this information.

¹³ See, e.g., Docket No. 20-02-22, *Annual Report to the Legislature – The State of Electric Competition*, Legislative Report (Mar. 31, 2021).

¹⁴ Interrogatory (emphasis added).

Suppliers, using their own systems, generally could report the zip codes and the number of customers served within each zip code associated with each residential rate. However, because they do not control, and do not have access to, the EDC systems, suppliers cannot guarantee that their data will match comparable data in EDC systems exactly or will be consistent with the data filed by the EDCs in Docket No. 06-10-22 in every instance. Suppliers should not be expected to reconcile any differences between the data in their systems and the information filed by the EDCs in Docket No. 06-10-22. Any such reconciliation would require consultation with the applicable EDC to determine the cause of the discrepancy and could entail a time-intensive review of significant amounts of data to resolve the issue, especially for suppliers, with a substantial number of residential customers.¹⁵ Thus, the Interrogatory is overly broad and unduly burdensome. Therefore, if, despite RESA's objections, the Authority determines that the Interrogatory is appropriate, the Authority should instruct EOE to seek the information from the EDCs.

II. THE INTERROGATORY IS NOT RELEVANT OR MATERIAL TO THE REPORT REQUIRED BY CONNECTICUT GENERAL STATUTES SECTION 16-245x(a)

Connecticut General Statutes section 16-245x(a) requires the Authority to “monitor on an on-going basis the state of competition, as it exists and as it is likely to evolve, and the average total rates of each customer class” and to report its findings.¹⁶ The Interrogatory does not seek

¹⁵ See, e.g., Docket No. 06-10-22, *PURA Monitoring the State of Competition in the Electric Industry*, The Connecticut Light and Power Company d/b/a Eversource Energy Monthly Migration Report (showing suppliers with tens of thousands of residential customers); Docket No. 06-10-22, *PURA Monitoring the State of Competition in the Electric Industry*, The United Illuminating Company Monthly Migration Report (Dec. 16, 2021) (same).

¹⁶ See Conn. Gen. Stat. § 16-245x(a) (“The Public Utilities Regulatory Authority shall, in consultation with the Office of Consumer Counsel, monitor on an on-going basis the state of competition, as it exists and as it is likely to evolve, and the average total rates of each customer class. Not later than January 1, 2002 and annually thereafter, the authority shall report its findings to the joint standing committee of the General Assembly having cognizance of matters relating to energy, provided, beginning with the report prepared in 2018, the authority shall report such findings on or before April first of each year.”).

information that would reveal the “average total rates of each customer class.”¹⁷ In fact, this information can, and historically has been, obtained from the EDCs.¹⁸

The Interrogatory seeks information about the zip codes in which suppliers charged specific prices to residential customers and the number of residential customers each supplier has per price per zip code.¹⁹ Connecticut General Statutes section 16-245x does not require this information²⁰ nor has the Authority historically included this information in the annual report to the legislature.²¹ Consequently, the information requested by the Interrogatory is immaterial and irrelevant to the report that the Authority is required to prepare pursuant to Connecticut General Statutes section 16-245x(a). Because the information requested by the Interrogatory is not material or relevant, suppliers should not be required to provide it.

III. THE INTERROGATORY IS NOT RELEVANT OR MATERIAL TO THE REPORT REQUIRED BY CONNECTICUT GENERAL STATUTES SECTION 16-245y(c)

Connecticut General Statutes section 16-245y(c) requires the Authority to report “the number of applicants for licensure pursuant to [Connecticut General Statutes] section 16-245 during the preceding twelve months, the number of applicants licensed by the [A]uthority and the average period of time taken to process a license application.”²² The Interrogatory does not request any information related to the number of applicants for supplier licenses, the number of

¹⁷ See Conn. Gen. Stat. § 16-245x(a).

¹⁸ See, e.g., Docket No. 20-02-22, *Annual Report to the Legislature – The State of Electric Competition*, Legislative Report (Mar. 31, 2021); Docket No. 06-10-22, *PURA Monitoring the State of Competition in the Electric Industry*, Monthly Migration and Supplier Pricing Reports; see also Interrogatory (specifically requesting information as it relates to the EDCs’ monthly migration and supplier pricing reports).

¹⁹ See Interrogatory.

²⁰ See Conn. Gen. Stat. § 16-245x(a).

²¹ See, e.g., Docket No. 20-02-22, *Annual Report to the Legislature – The State of Electric Competition*, Legislative Report (Mar. 31, 2021).

²² Conn. Gen. Stat. § 16-245y(c).

applicants licensed, or the timeframe for processing license applications.²³ Consequently, information about residential prices charged by zip code and the number of supplier customers per price per zip code is not material or relevant to the report that the Authority is required to prepare pursuant to Connecticut General Statutes section 16-245y(c). Because the information requested by the Interrogatory is not material or relevant, suppliers should not be required to provide it.

CONCLUSION

For the reasons set forth above, the Authority should issue a ruling determining that the Interrogatory is immaterial and irrelevant, directing suppliers not to respond to it, and, to the extent that suppliers have filed responses to the Interrogatory, striking those responses from the record.

Respectfully submitted,
RETAIL ENERGY SUPPLY
ASSOCIATION

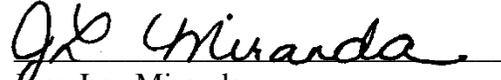


Joey Lee Miranda
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103
Phone: (860) 275-8200
Fax: (860) 275-8299
E-mail: jmiranda@rc.com

²³ See Interrogatory.

CERTIFICATION

I certify that a copy of the foregoing was sent to all participants of record on this 4th day of January 2022.


Jey Lee Miranda