

STATE OF CONNECTICUT

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

COMPREHENSIVE ENERGY STRATEGY :  
(CES) - SECTION 51 OF PUBLIC ACT 11-80 : DECEMBER 21, 2012

RETAIL ENERGY SUPPLY ASSOCIATION  
DRAFT STRATEGY COMMENTS

The Retail Energy Supply Association (“RESA”)<sup>1</sup> hereby submits its comments in response to the Department of Energy and Environmental Protection’s (“Department”) Notice of Request for Written Comments and Notice of Technical Meetings and Public Hearings, dated October 5, 2012 (“Notice”).

BACKGROUND

Section 51 of Public Act 11-80, *An Act Concerning the Establishment of the Department of Energy and Environmental Protection and Planning for Connecticut's Energy Future* (the “Act”) requires the Department to develop a comprehensive energy strategy (“Strategy”) that includes:

- identification and evaluation of the factors likely to affect future energy supplies, demand and costs;
- a statement of energy policies and long-range energy planning objectives and strategies appropriate to achieve, among other things, a sound economy, the least-cost mix of energy supply sources and measures that reduce demand for energy, giving due regard to such factors as consumer price impacts, security and diversity of fuel supplies and energy generating methods, protection of public health and safety, environmental goals and

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<sup>1</sup> RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; 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; PPL EnergyPlus, LLC; Reliant; 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.

standards, conservation of energy and energy resources and the ability of the state to compete economically;

- recommendations for administrative and legislative actions to implement such policies, objectives and strategies;
- an assessment of the potential costs savings and benefits to ratepayers, including, but not limited to, carbon dioxide emissions reductions or voluntary joint ventures to repower some or all of the state's coal-fired and oil-fired generation facilities built before 1990; and
- the benefits, costs, obstacles and solutions related to the expansion and use and availability of natural gas in Connecticut.<sup>2</sup>

In accordance with this requirement, the Department opened this proceeding and held an initial stakeholder meeting on April 10, 2012 (“Stakeholder Meeting”) in which RESA participated.<sup>3</sup> Subsequently, the Department issued a notice seeking initial scoping comments on the Strategy’s objectives and process and, on May 23, 2012, held a Sector Presentation Meeting (“Sector Presentation Meeting”). RESA submitted initial scoping comments and participated in the Sector Presentation Meeting.<sup>4</sup> On May 25, 2012, the Department issued a notice indicating that it was accepting additional scoping comments on the Sector Presentations.<sup>5</sup> In response, RESA submitted additional scoping comments.<sup>6</sup>

On October 5, 2012, the Department issued a draft Comprehensive Energy Strategy for public comment<sup>7</sup> and the Notice inviting comments on the Draft. On November 15, 2012, the Department held a Technical Meeting regarding the Electricity Sector Strategy presented in the

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<sup>2</sup> P.A. 11-80 at § 51(a).

<sup>3</sup> See Audio Recording of the 4/10/12 Stakeholder Meeting.

<sup>4</sup> See Retail Energy Supply Association Comments re Scoping, dated April 24, 2012; Audio Recording of the Sector Presentation Meeting held on May 23, 2012.

<sup>5</sup> See Notice of Request for Additional Scoping Comments, dated May 25, 2012.

<sup>6</sup> See Retail Energy Supply Association Additional Scoping Comments, dated June 5, 2012.

<sup>7</sup> See 2012 Comprehensive Energy Strategy for Connecticut, Draft for Public Comments, Prepared by The Connecticut Department of Energy and Environmental Protection, October 5, 2012 (“Draft”).

Draft (“Electricity Technical Meeting”). RESA participated in the Electricity Technical Meeting and now hereby submits its comments in response to the Notice.

## COMMENTS

The Draft’s core focus is: cheaper, cleaner and more reliable energy.<sup>8</sup> In states in which regulatory structures have been established that allow competitive retail markets to flourish, competitive markets have been able to offer products to customers that help to satisfy each of these goals. Connecticut has also achieved some of these benefits through competitive providers that offer customers lower cost, renewable products and/or distributed generation options.<sup>9</sup> As a result, the competitive electric market in Connecticut has grown significantly over the last several years.<sup>10</sup> However, there are still more opportunities for the competitive market to help Connecticut realize its goals.

### **I. THE ELECTRICITY SECTOR STRATEGY SHOULD ACKNOWLEDGE AND ENCOURAGE THE ROLE OF THE COMPETITIVE MARKET**

Although, in the Industry Sector Strategy, the Department acknowledges that industrial customers can decrease their energy costs if they switch to competitive retail suppliers,<sup>11</sup> the Electricity Sector Strategy fails to recognize the ability of commercial and residential customers to achieve that same benefit. However, as of November 30, 2012, 47.5% of the residential customer load and 83.4% of the commercial Standard Service customer load of The Connecticut Light and Power Company (“CL&P”) and 54.6% of the residential customer load and 79.7% of the commercial Standard Service customer load of The United Illuminating Company was served

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<sup>8</sup> Draft at 3.

<sup>9</sup> See, e.g., Draft at 48 (noting the reduction in costs available to industrial customers).

<sup>10</sup> See, generally, Public Utilities Regulatory Authority (“PURA”) Docket 06-10-22, *DPUC Monitoring of the State of Competition in the Electric Industry*, Monthly Migration Reports. At the time the proceeding was opened, the PURA was known as the Department of Public Utility Control (“DPUC”).

<sup>11</sup> Draft at 48.

by competitive electric suppliers.<sup>12</sup> Despite this significant presence, the Draft continues to focus on the use of Standard Service for these customers.<sup>13</sup>

By creating a regulatory structure that provides the competitive market with the opportunity to offer products that meet the policy objectives of the State, including increasing the State's investment in energy efficiency, renewable energy and other resources, suppliers are able to reduce the amount of ratepayer dollars needed to fund these programs. Thus, in finalizing the Strategy, RESA continues to encourage the Department to establish a paradigm that would allow for a more efficient market structure in which competitive retail providers concentrate on what they do best - providing market based generation supply options - and the electric distribution companies ("EDCs") concentrate on what they do best - providing reliable and cost effective transmission and distribution services. To do so, the Strategy must recognize and account for the role of the competitive market and provide the competitive market the opportunity to offer solutions before creating regulatory programs that impose greater costs on all ratepayers that can create unintended barriers to high value competitive offerings.

For instance, the Draft recognizes that the demand for electricity can be managed and reduced through a variety of methods, including "behavioral change supported by advances in technology and dynamic rates."<sup>14</sup> RESA agrees. Indeed, smart meters and the customer data available from such meters can revolutionize how customers purchase electricity by providing customers and their providers with the information necessary to transform customer behavior. For instance, most small customers today are offered a fixed rate for power consumption, either

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<sup>12</sup> See PURA Docket 06-10-22, *DPUC Monitoring of the State of Competition in the Electric Industry*, November 2012 Reports.

<sup>13</sup> See, e.g., Draft at 75.

<sup>14</sup> Draft at 83.

as default service from the EDCs or from competitive power providers. The ability to access real-time customer data available from smart meters enables suppliers to offer consumers price responsive demand (“PRD”) products as well as other new and innovative products. For example, in states where retail market structures provide the appropriate environment, the following products have been offered by competitive providers (rather than the incumbent utility):

- **“Power-to-Go”** – a smart meter-based technology that allows customers to exercise a far greater level of control in their purchasing and consumption of electricity than would be available from a traditional regulated utility.
- **“Free Power Saturday” Plan** – with the use of smart meter technology the program is designed to encourage and empower residential consumers to reduce electricity consumption during higher-priced weekly peak hours. Traditionally, weekends are considered part of off-peak periods, when electricity rates, consumption and demand are low. Industry research indicates that load shifting from on-peak to off-peak electricity consumption will reduce market costs translating into beneficial savings.
- **“Home Energy Manager”** – a smart-meter compatible home energy manager that will allow homeowners an unprecedented level of control over their home energy usage.

PRD products encourage customer adoption of new solutions to meet their energy needs, including allowing customers to make demand response and energy efficiency modifications to better manage their electricity consumption and costs. However, any innovative solution that involves shaping consumer behavior by having them respond to immediate price signals and receive appropriate credit for actions taken to reduce or avoid consumption in response to those signals depends on having real-time access to accurate customer data in a standardized format.

With the propagation of smart meters, utilities will be in a position to collect more valuable and detailed information about consumer usage patterns. However, the current method of usage data dissemination by EDCs varies widely and can encompass anything from a manual process to one form or another of Electronic Data Interchange (“EDI”). Each EDC implements

the method of access and data format differently, and EDI can be transmitted using a variety of technologies. For instance, some EDCs use value added networks (“VANs”) while others use internet protocols, including file transfer protocol (“FTP”) and e-mail.<sup>15</sup> In addition, EDI information is provided in a variety of formats.

An internet protocol based system would make programming easier than traditional code based programming and could reduce the amount of intervention required by EDC personnel as the information is populated directly from customers' meters into the web based system and accessed directly by the supplier; thereby, reducing programming/data entry costs and the potential for errors. By using an internet based system, the transmission of customer data can also be protected through SSL (Secure Sockets Layer), which is the standard security technology for establishing an encrypted link between a web server and a browser to ensure that all data passed between the web server and browsers remain private.<sup>16</sup>

Moreover, the EDI standards should include key data elements to help retail suppliers effectively prepare and structure pricing offers for their customers. In addition, all of the data should be provided in a manner that that allows information provided in one data set to be easily cross-referenced to another data set.

Improved and timely access to customer data will result in the following benefits: (a) simplification of the current process; (b) a consistent format of the data available; (c) improved

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<sup>15</sup> Although PURA has approved the use of internet based data exchange, CL&P continues to provide EDI via its VAN as well as the internet. See PURA Docket 98-06-17, *DPUC Investigation Into Billing and Metering Protocols and Appropriate Cost-Sharing Allocations Among Electric Distribution Companies and Electric Suppliers – DPUC Approval of the Use of the Internet for Electronic Data Exchange between the Electric Distribution Companies and Suppliers*, October 29, 2010 Correspondence from DPUC to Dominion Retail, Inc.

<sup>16</sup> SSL is an industry standard used by millions of websites in the protection of their online transactions with their customers. Such protection is typically not available to information transmitted via e-mail unless the e-mail is encrypted.

timeliness and accuracy of supplier pricing and billing; (d) improved quality of customer usage data; (e) reduced chance of cancel/re-bill; (f) development of a strong competitive electric marketplace; (g) encouragement of customer adoption of new solutions to meet their energy needs, including allowing customers to make demand response and energy efficiency modifications to better manage their electricity consumption and costs; and (h) reduced costs for both the EDCs and suppliers. Accordingly, RESA encourages the Department, as part of the Strategy, to require the PURA to reinvigorate the Electronic Business Transactions Working Group (“EBT Working Group”) to allow for the evaluation of current customer data elements and data access methods and to require the EDCs to improve access to customer data by:

- Providing all customer data via EDI;
- Defining a standard IP (internet protocol) based access in a common language or data standard (XML); and
- Including key data elements so that competitive providers have access to the information needed to effectively prepare and structure innovative pricing offers for their customers.

## **II. THE RENEWABLE PORTFOLIO STANDARD (RPS) STUDY SHOULD TAKE INTO ACCOUNT POTENTIAL IMPACTS ON CUSTOMERS AND THE COMPETITIVE MARKET FOR ELECTRICITY**

The Draft indicates that the Department is “preparing a study of the state’s RPS targets and timetable with an eye toward evaluating the impacts of allowing additional clean resources, such as low-cost, clean hydro from Canada.” Draft at 77. During the Electricity Technical Meeting, the Department discouraged stakeholders from commenting on potential changes being considered as part of the RPS Study and indicated that there would be an opportunity to raise any concerns in the course of the stakeholder process for that study. However, the Department also indicated that it intends to issue the RPS Study in time for the General Assembly to take action on that study’s recommendations during the upcoming legislative session. Given that the 2013

legislative session is scheduled to begin in just a few weeks (i.e., on January 9, 2013), RESA is concerned that there will not be sufficient opportunity for stakeholder input on the RPS Study. Indeed, by rushing to issue a study, the Department may fail to account for the significant impacts that changes in the RPS may have on customers and the retail competitive market for electricity.

For instance, modifications to the RPS create an environment of regulatory uncertainty that could negatively impact retail suppliers' ability and/or willingness to continue to invest and participate in the burgeoning Connecticut retail electric market. Moreover, changes to the RPS can have a significant negative impact on customers. For instance, suppliers have made contracting decisions in reliance on the current RPS. In particular, based on the current RPS, suppliers have determined the cost that they will include in the price that they charge consumers for RPS compliance. When the compliance obligation changes, it impacts existing contracts that were priced based on the prior obligation and may have a term of service that extends over multiple years. While a supplier may have contractual and legal means to address such circumstances, the financial impact to customers, especially governmental and institutional customers, that have contracted for a fixed price and may be subject to new and unanticipated charges, place customers in an untenable position.

In Connecticut, nearly all load is served, directly or indirectly, by competitive suppliers, who either provide wholesale service to the EDCs or who provide retail service directly to end-use customers. To meet its RPS obligations, the supplier faces several risks. If the price of renewable energy credits ("RECs") goes up and no hedges have been purchased, then the portfolio manager is stuck having to cover compliance obligations in a high price market. It would, therefore, seem prudent to cover at today's REC prices with a forward purchase and to



bundle the cost of those RECs into the sales price to the customer. Balanced against this, however, is the risk associated with unexpected changes to REC requirements such as those potentially being contemplated by the Department. If the RPS percentage is increased unexpectedly, the portfolio manager will have to procure more RECs at a time when there is increased demand in the marketplace and presumably prices are higher.

Portfolio managers will then seek to manage their regulatory risk in one of several ways. First, by shortening the length of their retail load serving contracts, perhaps to 12 months or less, retail suppliers and their customers can re-price and re-negotiate at the time of annual renewal, minimizing the risks associated with changes in RPS requirements. This, however, will severely restrict the incentive retail suppliers otherwise might have to purchase RECs today for use as a hedge against future compliance obligations. Alternatively, retail suppliers can offer longer term contracts for electricity with a pass-through for RPS compliance costs. This shifts the regulatory risk from the retail suppliers to the customer but also undercuts the retail suppliers' incentive for REC hedging for that customer. As a third option, retail suppliers could build a significant risk premium into the cost associated with RPS compliance to ensure that future regulatory changes do not create potentially uneconomic contracts. This risk premium will then be reflected in the prices paid by consumers.

Subjecting suppliers to unexpected changes in RPS quantity requirements will materially increase forward contracting risk, discourage forward load and supply commitments, and increase customer costs. Thus, RESA encourages the Department to ensure that any changes in the RPS take into account existing contractual relationships and grandfather existing contracts (i.e., exempt from any new or increased RPS, contracts entered into prior to the effective date of any change in the RPS until the expiration of such contracts).

RESA also encourages the Department to avoid the use of long-term contracts between the EDCs and developers as a means to spur renewable project development. As a general rule, if investment in renewable generation makes business sense, whether via ownership or long-term contracts, private capital will flow to those investments. There is no shortage of private capital available to finance investments in renewable generation when the marketplace believes it will bring a reasonable return. If the marketplace does not step up, then this indicates that the right price signals are not being sent (*i.e.*, the marketplace is signaling that the return on investment will not be sufficient). Therefore, allowing an EDC to enter into long-term contracts for renewable generation under these circumstances should be cause for concern since the stranded costs of any unwise investment will be borne by the ratepayers. Thus, rather than using ratepayer dollars to fund renewable investment, especially in investment in a government-owned enterprise outside the U.S., RESA requests that the Department allow the competitive market to determine the appropriate investment. If the Department ultimately decides to employ long-term contracts, such an approach can meet legal requirements and realize the best ratepayer value if solicited throughout the region eligible to supply RECs (*i.e.*, the New England states and adjacent control areas).

Moreover, to the extent the Department does permit the EDCs to enter into long-term contracts to satisfy their RPS obligations, the Department should ensure that the costs of such contracts are recovered in the generation portion of customer bills. Generally, the decision of which costs should be allocated to the EDCs' generation rates should be based on cost causation

principles.<sup>17</sup> Thus, any costs that the EDCs incur to provide generation services should be included in their generation rates.

As the Department is aware, both the EDCs and electric suppliers have an obligation to comply with the RPS for Class I, Class II and Class III renewable energy sources.<sup>18</sup> A particular entity's (i.e., the EDC or electric supplier) RPS obligations are based on the amount of electric **generation** services that the EDC or electric supplier provides to Connecticut customers in a given year.<sup>19</sup> Therefore, if the EDCs were not providing generation services, they would not be required to purchase any RECs. Accordingly, the costs of purchasing RECs and administering a program for the purchase of RECs are properly characterized as generation related charges.

In addition, as customers migrate from Standard Service and/or Supplier of Last Resort Service ("Last Resort Service"), the EDCs' RPS obligations decrease. Conversely, as those customers migrate to competitive supply, the electric suppliers' RPS obligations increase.<sup>20</sup> As a consequence, when a customer migrates from Standard Service or Last Resort Service to competitive supply, there is no longer a cost to the EDCs for purchasing RECs to meet the RPS obligations associated with that particular customer's load; rather, that cost is now borne by the customer's electric supplier. Thus, the costs associated with the purchase of RECs should be bypassable (i.e., avoided) when a customer migrates from Standard Service or Last Resort Service to competitive supply.

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<sup>17</sup> See, e.g., Final Decision, dated May 10, 2006, Docket No. 05-08-05, *DPUC Investigation into the Process by which Customers Can Choose an Electric Supplier When Initiating Electric Service*, at 19 (noting that current bad debt allocation is contrary to cost causation principles).

<sup>18</sup> See Conn. Gen. Stat. §§ 16-245a, 16-243q.

<sup>19</sup> See *Id.*

<sup>20</sup> See *Id.* (RPS obligation measured as percentage of total generation).

Furthermore, because both the EDCs and electric suppliers incur the costs associated with purchasing RECs, if those costs are not collected through the bypassable portion of rates, when a consumer selects an electric supplier, the customer will end up paying duplicate costs – once in the supplier’s price and once in the EDCs’ distribution rates. As a result, customers who receive their energy from an electric supplier will subsidize the costs that the EDCs incur to provide Standard Service and Last Resort Service to those customers who do not switch. This structure also creates two other issues: (1) the EDCs are charging consumers artificially low generation rates that do not provide accurate price signals regarding the cost of generation; and (2) consumers receive inaccurate price signals regarding the value of the service provided by retail suppliers. By properly allocating the costs associated with the purchase of RECs and of administering the program to the EDCs’ generation rates, consumers avoid paying costs for which they are not responsible and can properly evaluate the cost of generation services. Accordingly, RESA requests that the Department continue to require that all costs associated with the EDCs’ purchase of RECs be collected through the generation portion of rates.

### **III. THE DEPARTMENT SHOULD REQUIRE THE EVALUATION OF RESIDENTIAL NATURAL GAS CHOICE**

RESA supports the availability of customer choice in all sectors of the retail energy market, including the natural gas market. Since 1996, commercial and industrial customers in Connecticut have had the opportunity to purchase their natural gas from competitive providers and take advantage of products that best suit their individual needs. Those same opportunities should be available to residential customers. Indeed, allowing residential customers the opportunity to choose their natural gas supplier would further increase opportunities for customers to reduce their energy costs. Just as residential electric choice has provided opportunities for Connecticut ratepayers to take advantage of competitive offerings that best suit

their needs, residential natural gas choice can also provide benefits to ratepayers. Accordingly, RESA encourages the Department, as part of the Strategy, to recommend appropriate legislative and/or regulatory changes to permit natural gas choice for residential customers.

### CONCLUSION

RESA appreciates the opportunity to provide these comments and to continue to actively participate in this proceeding.

Respectfully submitted,  
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