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April 3, 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 Motion to Strike Portions of the Direct Testimony of Susan M. Baldwin 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,



Joey Lee Miranda

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- :
2450(M) : APRIL 3, 2019

RETAIL ENERGY SUPPLY ASSOCIATION’S
MOTION TO STRIKE
PORTIONS OF THE DIRECT TESTIMONY OF SUSAN M. BALDWIN

The Retail Energy Supply Association (“RESA”)1 hereby moves the Public Utilities
Regulatory Authority (“Authority”) to strike all parts of the Direct Testimony of Susan M.
Baldwin2 and associated exhibits3 addressing non-white customers, customers with limited
English proficiency, and communities with higher percentages of such customers.4

BACKGROUND

On June 4, 2018, the Authority initiated the instant proceeding to review the feasibility,
costs, and benefits of transferring to Standard Service all customers specifically enumerated in
Connecticut General Statutes section 16-245o(m) (“Hardship Customers”).5 On February 27,

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 Direct Testimony of Susan M. Baldwin on Behalf of the Office of Consumer Counsel (Feb. 27, 2019) (“Baldwin
Testimony”).

3 Exhibits of Susan M. Baldwin on Behalf of the Office of Consumer Counsel (Feb. 27, 2019) (“Baldwin Exhibits”;
and, together with the Baldwin Testimony, the “Baldwin PFT”).

4 Baldwin Testimony, at 3, lines 2-5; Baldwin Testimony, at 5, lines 15-18; Baldwin Testimony, at 10, lines 10-16;
Baldwin Testimony, at 42, lines 4-22; Baldwin Testimony, at 43, lines 16-23; Baldwin Testimony, at 48, line 5
through Baldwin Testimony, at 59, line 7; Baldwin Exhibits, Exhibit SMB-9, at 3-4; Baldwin Exhibits, Exhibit
SMB-10, at 3-4 (collectively, the “Baldwin Race and Language Testimony”).

5 Revised Notice of Proceeding (Feb. 7, 2019) (“Revised Notice of Proceeding”), at 1.

2019, the Office of Consumer Counsel (“OCC”) filed the Baldwin PFT.⁶ Portions of the Baldwin PFT address the participation in the competitive supply market of “hardship customers in communities with specific demographics” and “assess whether hardship customers in some communities pay higher rates than do hardship customers in other communities.”⁷ In particular, the Baldwin PFT draws conclusions about hardship customers living in communities with high percentages of non-white populations and hardship customers living in communities with high percentages of households lacking English proficiency.⁸ RESA now hereby moves to strike these portions of the Baldwin PFT.

LEGAL STANDARD

Evidence that is not relevant is inadmissible.⁹ “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.¹⁰

ARGUMENT

The scope of the instant proceeding is explicitly and narrowly defined.¹¹ By the plain language of Connecticut General Statutes section 16-245o(m), it is limited to the feasibility,

⁶ Baldwin PFT.

⁷ Baldwin Testimony, at 3.

⁸ See Baldwin Race and Language Testimony.

⁹ Conn. R. Evid. Sec. 4-2; see also, e.g., Docket No. 17-10-31, *PURA Review of the LDCs’ Gas Supply Portfolio, Asset Strategies and Practices*, Motion No. 10 Ruling (Mar. 21, 2018); Docket No. 00-07-17, *DPUC Investigation of the Southern New England Telephone Company’s Alternative Regulation Plan*, Motion No. 11 Ruling (Nov. 3, 2000) (striking certain material as being beyond the scope of the proceeding).

¹⁰ Conn. Code Evid. Sec. 4-1; see also *Raybeck v. Danbury Orthopedic Associates, P.C.*, 72 Conn. App. 359, 378 (2002).

¹¹ See Revised Notice of Proceeding, at 1 (setting the scope of the proceeding and noting that the proceeding was opened pursuant to Connecticut General Statutes sections 16-245o(m) and 16-262c); see also Conn. Gen. Stat. § 16-245o(m) (authorizing the Authority to initiate a docket to review the feasibility, costs and benefits of placing on standard service certain customers of electric suppliers); Conn. Gen. Stat. § 16-262c (defining “hardship cases” as used in Connecticut General Statutes section 16-245o(m)).

costs, and benefits of transferring specifically identified customers to Standard Service.¹² The Baldwin Race and Language Testimony goes beyond the Customers enumerated in the statute. Thus, the Baldwin Race and Language Testimony is irrelevant and should be stricken from the record.

The fundamental objective of statutory interpretation “is to ascertain and give effect to the apparent intent of the legislature.”¹³ It is axiomatic that “[t]he meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes.”¹⁴ “If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered.”¹⁵ However, “when the ordinary meaning [of a word or phrase] leaves no room for ambiguity . . . the mere fact that the parties advance different interpretations of the language in question does not necessitate a conclusion that the language is ambiguous.”¹⁶

“The intent of the legislature is to be found in the meaning of the words of the statute; that is, in what the legislature actually *did* say, not in what it *meant* to say.”¹⁷ In fact, “it is a well

¹² Revised Notice of Proceeding, at 1. The Authority noted that certain issues examined in Docket No. 18-04-25, *PURA Investigation Regarding Issues Related to Uncollectible Accounts*, may prove relevant to the instant docket; however, the Authority did not include race or language in this list of issues. *See id.* at 2.

¹³ *Tuxis Ohr's Fuel, Inc. v. Adm'r, Unemployment Comp. Act*, 309 Conn. 412, 421-422 (2013) (internal quotation marks omitted); *see also Connecticut Consumer Counsel v. Connecticut Pub. Util.*, Docket Nos. CV 970572743, CV 970572788, 1998 Conn. Super. LEXIS 2910 (Oct. 16, 1998), at *18 (“[W]e are guided by well established principles, paramount among which is the principle that our fundamental objective is to ascertain and give effect to the apparent intent of the legislature . . .”) (citations omitted; internal quotation marks omitted).

¹⁴ Conn. Gen. Stat. § 1-2z; *see also Harris Data Communications, Inc. v. Heffernan*, 183 Conn. 194, 198 (1981) (“Where the language of the statute is unambiguous, we are confined to the intention expressed in the actual words used and we will not search out any further intention of the legislature not expressed in the statute.”).

¹⁵ Conn. Gen. Stat. § 1-2z; *see also Harris Data*, 183 Conn. at 198 (“Where the language of the statute is unambiguous, we are confined to the intention expressed in the actual words used and we will not search out any further intention of the legislature not expressed in the statute.”).

¹⁶ *In re Justice W.*, 308 Conn. 652, 661 (2012) (alterations in original).

¹⁷ *Doe v. Manson*, 183 Conn. 183, 186 (1981) (emphasis in original).

settled principle of statutory construction that the legislature knows how to convey its intent expressly or to use broader or limiting terms when it chooses to do so.”¹⁸

Connecticut General Statutes section 16-245o(m) specifically identifies the customers who are the subject of the instant proceeding.¹⁹ These customers consist of: (a) “hardship cases”; (b) customers “having moneys due and owing deducted from such customers’ bills” by the EDC; (c) customers “receiving other financial assistance” from an EDC; or (d) customers “who are otherwise protected by law from shutoff of electricity services.”²⁰ A “hardship case” is defined as:

(i) A customer receiving local, state or federal public assistance; (ii) a customer whose sole source of financial support is Social Security, Veterans’ Administration or unemployment compensation benefits; (iii) a customer who is head of the household and is unemployed, and the household income is less than three hundred per cent of the poverty level determined by the federal government; (iv) a customer who is seriously ill or who has a household member who is seriously ill; (v) a customer whose income falls below one hundred twenty-five per cent of the poverty level determined by the federal government; and (vi) a customer whose circumstances threaten a deprivation of food and the necessities of life for himself or dependent children if payment of a delinquent bill is required.²¹

No other types or classifications of customers are mentioned or referenced. If the General Assembly had intended to include other customers within the scope of the statute, it would have done so.²² However, it did not. Thus, the scope of the Authority’s investigation in this proceeding is limited to the feasibility, costs, and benefits of transferring Hardship Customers served by electric suppliers to Standard Service.

¹⁸ *Perry v. Perry*, 312 Conn. 600, 624 (2014) (internal citations omitted).

¹⁹ See Conn. Gen. Stat. § 16-245o(m).

²⁰ Conn. Gen. Stat. § 16-245o(m).

²¹ Conn. Gen. Stat. § 16-262c(b)(3).

²² See *Perry*, 312 Conn. at 624 (“it is a well settled principle of statutory construction that the legislature knows how to convey its intent expressly or to use broader *or limiting terms* when it chooses to do so.”) (emphasis added).

Yet, when discussing communities with high percentages of non-white and limited-English-proficiency customers, the Baldwin Race and Language Testimony does not contend that any non-white or limited-English-proficiency customers are Hardship Customers served by electric suppliers or, are even Hardship Customers at all.²³ Rather, the Baldwin Race and Language Testimony simply asserts that there are geographic areas with both high non-white populations or high percentages of households lacking English proficiency and that, within those communities, there are Hardship Customers served by competitive suppliers.²⁴ However, the Baldwin Race and Language Testimony does not establish that any non-white populations or households lacking English proficiency are Hardship Customers. Nor does the testimony show that any of these populations or households are served by competitive suppliers. Accordingly, the Baldwin Race and Language Testimony has no bearing on the feasibility, costs, and benefits of transferring Hardship Customers served by competitive suppliers to Standard Service. Consequently, all of the Baldwin PFT regarding non-white and limited-English-language-proficiency customers, including communities with high percentages of such customers, goes beyond the scope of the instant proceeding. It is, therefore, irrelevant and should be stricken from the record.

CONCLUSION

For the reasons set forth above, the Authority should strike the Baldwin Race and Language Testimony from the record.

²³ *See, generally*, Baldwin Race and Language Testimony.

²⁴ Baldwin Testimony, at 55-59.

Respectfully Submitted,
RETAIL ENERGY SUPPLY
ASSOCIATION

By: 

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CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants of record on this
3rd day of April 2019.


Joey Lee Miranda