

STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

TWO-YEAR REVIEW REQUIRED : DOCKET NO. 18-06-02RE01
PURSUANT TO CONN. GEN. STAT. § 16- :
245o(m) : JANUARY 6, 2022

**RETAIL ENERGY SUPPLY ASSOCIATION AND NRG RETAIL
OPPOSITION TO MOTION NO. 2**

The Retail Energy Supply Association (“RESA”),¹ together with Direct Energy Services, LLC; Direct Energy Business, LLC; Direct Energy Business Marketing, LLC; Energy Plus Holdings LLC; Independence Energy Group LLC; Reliant Energy Northeast LLC; Green Mountain Energy Company; and XOOM Energy Connecticut, LLC (collectively, “NRG Retail”), hereby opposes the Office of Education, Outreach, and Enforcement’s (“EOE”) and the Office of Consumer Counsel’s (“OCC’s”) December 20, 2021 Motion to Stay Proceeding and Petition to Open a New Docket.²

BACKGROUND

On December 10, 2021, the Authority reopened Docket No. 18-06-02,³ pursuant to Connecticut General Statutes sections 16-245o(m) and 16-262c, to reevaluate Order 2 in its December 18, 2019 Decision,⁴ which required the electric distribution companies (“EDCs”) to

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. 2 (Dec. 20, 2021) (the “Motion”).

³ See Notice of Proceeding (Dec. 13, 2021), at 1.

⁴ 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)*, Decision (Dec. 18, 2019) (“18-06-02 Decision”).

return all hardship customers to Standard Service and prevent future hardship customers from enrolling with electric suppliers.⁵

On December 20, 2021, EOE and OCC filed the Motion requesting that the Authority stay this proceeding and first open a new docket to investigate supplier offers pursuant to Connecticut General Statutes section 16-245(a).⁶ On December 23, 2021, in response to a motion from RESA,⁷ the Authority afforded all participants an opportunity to respond to the Motion by January 6, 2022.⁸ RESA and NRG Retail hereby respond in opposition to the Motion.

ARGUMENT

The proceeding requested in the Motion is not authorized and is not feasible. Moreover, EOE and OCC failed to provide factual justification for the Authority to undertake an investigation of supplier offers and improperly assert that a comparison of supplier offers to the Standard Service rate is an appropriate benchmark. Further, an investigation at this time would be premature. Thus, for the reasons set forth more fully below, the Authority should deny the Motion.

I. THE REQUESTED PROCEEDING IS NOT AUTHORIZED AND IS INFEASIBLE

EOE and OCC requested that the Authority open a general investigation of supplier offers pursuant to Connecticut General Statutes section 16-245(a) because such an investigation “could result in restrictions being placed on all supplier contracts with residential customers.”⁹ Fundamentally, however, Connecticut General Statutes section 16-245(a), as amended by P.A.

⁵ See 18-06-02 Decision, at 18 (Order 2).

⁶ See Motion.

⁷ See Motion No. 3 (Dec. 22, 2021).

⁸ See Motion No. 3 Ruling (Dec. 23, 2021).

⁹ See Motion, at 1.

21-117, does not authorize the Authority to investigate supplier offers generally or to impose such general restrictions on supplier offers. Rather, it is a licensing statute authorizing licensees to provide electric supply service.¹⁰ By its plain language, it applies to each supplier individually. Specifically, using singular forms, it empowers the Authority to place conditions on “*an* electric supplier’s license,”¹¹ which conditions may include proof about “*the electric supplier’s* products.”¹² Thus, pursuant to Connecticut General Statutes section 16-245(a), the Authority only may impose conditions on a supplier’s license and access to EDC systems on a particularized, supplier-by-supplier basis. As a consequence, any action that the Authority takes under Connecticut General Statutes section 16-245(a) must be specific to a particular supplier, and it is not appropriate to open a general proceeding addressing all supplier offers.

Moreover, this statutory focus on individual suppliers recognizes that, as a practical matter, endeavoring to develop such “just and reasonable” restrictions on all supplier offers is not feasible. The energizeCT.com rate board (the “Rate Board”) currently lists forty-six (46) licensed suppliers in Connecticut.¹³ These suppliers differ from each other in many respects. Some are licensed to serve all classes of customers;¹⁴ others serve only commercial and industrial customers;¹⁵ and others only provide service through the successor to the Clean Energy

¹⁰ See Conn. Gen. Stat. § 16-245(a) (“No person shall execute any contract relating to the sale of electric generation services to be rendered after January 1, 2000, to end use customers located in the state unless such person has been issued a license by the authority in accordance with the provisions of this section.”).

¹¹ See Conn. Gen. Stat. § 16-245(a) (“The Public Utilities Regulatory Authority shall have the authority to condition *an electric supplier’s license* and access to the systems and billing of the electric distribution companies on terms the authority determines to be just and reasonable, including, but not limited to, proof that *the electric supplier’s* products are not overpriced or harmful to residential customers.”) (emphasis added).

¹² *Id.* (emphasis added).

¹³ See Rate Board, <https://energizect.com/list-of-suppliers> (last visited Jan. 4, 2022).

¹⁴ See, e.g., Docket No. 06-03-06, *Application of Direct Energy Services, LLC for an Electric License Application*, Decision (Jun. 7, 2006) (granting a license to serve residential, commercial, and industrial customers),

¹⁵ See, e.g., Docket No. 00-05-14, *Application of Strategic Energy, LLC for a Connecticut Electric Supplier License*, Decision (Sep. 27, 2000) (granting a license to serve commercial and industrial customers).

Options program.¹⁶ Moreover, suppliers offer – and compete by offering – products with varying features, such as products with different durations,¹⁷ varying amounts of renewable energy content, and other value-added components.¹⁸ Further, suppliers are organized in various ways and have different underlying costs, depending, in part, on their wholesale power procurement strategies and how they structure their operations.¹⁹ As a result, determining what terms are “just and reasonable”²⁰ to impose on each supplier’s licenses cannot be done on a “one-size-fits-all” basis and would be as absurd as trying to set “just and reasonable”²¹ rates and charges for all public service companies in a single proceeding.

II. EOE/OCC’S FACTUAL CLAIM DOES NOT SUPPORT THE REQUESTED PROCEEDING

In support of the Motion, EOE and OCC attempt to rely on “the supplier rates filed monthly in Docket No. 06-10-22 and the filings in Docket No. 20-03-15 showing how many customers paying greater than standard service are subject to payment arrangements.”²²

However, EOE and OCC provided no more factual justification for their request than this bald statement.²³ For instance, EOE and OCC did not indicate how many suppliers are serving

¹⁶ See, e.g., Docket No. 11-11-07, *Application of 3Degrees Group, Inc. for an Electric Supplier License*, Decision (Dec. 14, 2011) (granting a license to supply renewable energy credits).

¹⁷ Rate Board, https://energizect.com/compare-energy-suppliers?field_edc_value=ES&field_rate_type_value=Residential&op=Compare+Now (last visited Jan. 4, 2022) (showing residential competitive supply offers in the Eversource service territory with terms ranging up to thirty-six months).

¹⁸ Rate Board, https://energizect.com/compare-energy-suppliers?field_edc_value=ES&field_rate_type_value=Residential&op=Compare+Now (last visited Jan. 4, 2022) (showing residential competitive supply offers in the Eversource service territory with premium renewable energy content and/or other value-added content).

¹⁹ Cf. 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)*, Testimony of Richard J. Hudson, Jr. On Behalf of Retail Energy Supply Association (May 21, 2019) (“RESA Testimony”), at 30 (“[I]ndividual retail suppliers engage in different wholesale procurement strategies and hedge power at different times and in different ways.”).

²⁰ See Conn. Gen. Stat. § 16-245(a).

²¹ See Conn. Gen. Stat. § 16-19.

²² Motion, at 1.

²³ See Motion.

customers at prices higher than Standard Service that are also on payment arrangements.²⁴ Nor do the cited EDC compliance filings provide this information for the majority of customers on payment arrangements.²⁵ Furthermore, as of January 1, 2022, Standard Service rates “increase[d] significantly.”²⁶ Thus, the number of customers enrolled with suppliers that are paying more than the Standard Service rate likely also changed significantly on January 1.

Moreover, there is no inherent link between a customer’s enrollment in competitive supply and entry into a payment arrangement. In fact, vastly more Standard Service customers had payment arrangements than customers enrolled on competitive electric supply.²⁷ Similarly, there is no inherent link between a customer’s enrollment in a competitive supply product with a price exceeding the Standard Service rate and the success or failure of any payment arrangement. Indeed, there were substantially more failed payment arrangements for Standard Service customers than there were for customers on supplier offers with prices greater than the then-

²⁴ See, generally, Motion.

²⁵ While The United Illuminating Company (“UI”) provides data in the aggregate and on a supplier-by-supplier basis, The Connecticut Light and Power Company d/b/a Eversource Energy (“Eversource”) only provides the information on an aggregate basis. *Compare* Docket No. 20-03-15, *Emergency Petition of William Tong, Attorney General for The State Of Connecticut, For A Proceeding To Establish A State Of Emergency Utility Shut-Off Moratorium*, Eversource Compliance with Amended Order No. 6 and Order No. 40 (Dec. 15, 2021) (“Eversource Compliance Report”), Attachment 2 with Docket No. 20-03-15, *Emergency Petition Of William Tong, Attorney General For The State Of Connecticut, For A Proceeding To Establish A State Of Emergency Utility Shut-Off Moratorium*, UI Compliance with Order No. 14 of May 15, 2020 Correspondence on Motion Nos. 7 and 8; Compliance with Order No. 27 of September 2, 2020 Correspondence on Motion No. 9 (Dec. 15, 2021) (“UI Compliance Report”), Attachment 2.

²⁶ See Electric Bill/Rate Components (Effective January 1, 2022), <https://portal.ct.gov/-/media/OCC/01012022-Electric-Bill-Components-Final-122721.pdf> (last visited Jan. 5, 2022).

²⁷ Eversource Compliance Report, Attachment 2 (showing for November 2021: 25,643 active COVID-19 residential payment arrangements with only 3,321 (approximately 13%) with residential customers enrolled with electric suppliers; 2,788 active COVID-19 non-residential arrangements with only 777 (approximately 28%) with non-residential customers enrolled with electric suppliers); UI Compliance Report, Attachment 2 (showing for November 2021: 11,288 active COVID-19 payment arrangements with only 1,792 (approximately 16%) with customers enrolled with electric suppliers; 136 active other arrangements with 25 (approximately 18%) with customers enrolled with electric suppliers).

applicable Standard Service rate.²⁸ As the foregoing demonstrates, the data that EOE and OCC invoked to justify the requested investigation actually contradict their suggestion that customers paying more than the Standard Service rate are inherently more likely to have payment arrangements or failed payment arrangements. Consequently, EOE and OCC have failed to provide a factual basis to support an investigation of all supplier offers.

III. STANDARD SERVICE IS NOT AN APPROPRIATE BENCHMARK

Fundamentally, Standard Service is not an appropriate benchmark for evaluating competitive supply offers. Competitive supply products and Standard Service are entirely different products that vary significantly and thus, should not be compared against one another.

A. Competitive Supply Offers Features Unavailable From Standard Service

Competitive supply offers often contain features that are unavailable from Standard Service. These features affect the cost of competitive supply products and lead to differences between competitive supply prices and Standard Service rates. For example, competitive supply offers may be longer in duration than the six-month Standard Service term.²⁹ As a result, competitive supply products offer opportunities to mitigate the risk of Standard Service price volatility. Energy markets are highly dynamic, exhibit volatility, and can experience disruptive

²⁸ See Eversource Compliance Report, Attachment 2 (for November 2021: 5,932 failed COVID-19 residential arrangements with 466 (approximately 8%) with a supplier price greater than the Standard Service rate; 417 failed COVID-19 non-residential arrangements with 103 (approximately 25%) with supplier price greater than the Standard Service rate); UI Compliance Report, Attachment 2 (for November 2021: 3,805 failed COVID-19 arrangements with 536 (approximately 14%) with supplier price greater than the Standard Service rate; 96 failed other arrangements with 10 (approximately 10%) with supplier price greater than the Standard Service rate).

²⁹ See, e.g., RESA Testimony, at 44 (observing that electric suppliers offer contracts with fixed price terms ranging up to thirty-six months); Rate Board, https://energizect.com/compare-energy-suppliers?field_edc_value=ES&field_rate_type_value=Residential&op=Compare+Now (last visited Jan. 4, 2022) (showing residential competitive supply offers in the Eversource service territory with terms ranging up to thirty-six months).

and anomalous events like fall 2021's high natural gas prices,³⁰ the 2014 Polar Vortex, the similar extreme cold that occurred in winter 2015, the 2007/2008 financial crises, and natural disasters.³¹ As a consequence, Standard Service rates, which change every six months, can exhibit pronounced volatility.³² For example, on January 1, 2022, Eversource's residential Standard Service rate increased by more than sixty percent (60%).³³ Because individual electric suppliers engage in different wholesale procurement strategies and hedge power at different times and in different ways,³⁴ they can offer—and are offering—more competitive and longer term options than Standard Service.³⁵

Price stability is a real and tangible benefit.³⁶ Thus, a customer on a long-term fixed rate plan is protected from significant and unforeseen increases in wholesale energy prices.³⁷ Even if future wholesale market prices turn out to be less than prices in effect at the time the customer enters into the contract, the customer still benefits from the “price insurance” provided by the fixed price supplier contract.³⁸ For instance, in late 2018, Constellation Energy offered a thirty-

³⁰ See, e.g., U.S. Energy Information Administration, Short-Term Energy Outlook, Natural Gas, <https://www.eia.gov/outlooks/steo/report/natgas.php> (Release Date: Dec. 7, 2021) (last visited Jan. 5, 2022) (summarizing recent trends in natural gas prices).

³¹ See RESA Testimony, at 30.

³² See *id.* at 43 (depicting the volatility of Eversource and UI Standard Service rates from January 2008 through January 2019).

³³ Compare Docket No. 21-01-01, *Administrative Proceeding to Review The Connecticut Light and Power Company's Standard Service and Supplier of Last Resort Service 2021 Procurement Results and Rates*, Motion No. 4 Ruling (May 6, 2021), at 2, with Docket No. 22-01-01, *Administrative Proceeding to Review The Connecticut Light and Power Company's Standard Service and Supplier of Last Resort Service 2022 Procurement Results and Rates*, Motion No. 1 Ruling (Nov. 5, 2021), at 2.

³⁴ See RESA Testimony, at 30.

³⁵ See, e.g., Rate Board, https://energizect.com/compare-energy-suppliers?field_edc_value=ES&field_rate_type_value=Residential&op=Compare+Now (last visited Jan. 4, 2022) (showing thirteen residential competitive supply offers in the Eversource service territory with prices below the current Standard Service rate and terms ranging up to thirty-six months); see also RESA Testimony, at 44 (observing that electric suppliers offer contracts with fixed price terms ranging up to thirty-six months).

³⁶ RESA Testimony, at 44.

³⁷ See *id.*

³⁸ See *id.*

six month fixed price competitive supply product.³⁹ While the price was higher than the July through December 2018 Eversource Standard Service rate, it was 5.4% lower than the January through June 2019 Eversource Standard Service rate and twenty-four percent (24%) lower than the five-year high Eversource Standard Service rate.⁴⁰ Designing products with longer-term price stability may require different wholesale power procurement strategies than are used for procuring wholesale power for Standard Service.⁴¹ Thus, price differences between longer-term competitive supply products and Standard Service may reasonably reflect differences between the supply options.

Competitive supply products can also offer additional value beyond what is available from Standard Service, including, premium renewable energy content and enrollment rewards.⁴² These components of competitive supply products can significantly increase the value of those products relative to Standard Service. For example, historically, the value of premium renewable energy in a competitive supply product that contains 100% renewable energy content has been in the range between 1.15 and 2.9 cents per kilowatt-hour.⁴³ Similarly, cash-back or rebate-based enrollment incentives can provide additional value by offsetting charges for energy consumption.⁴⁴

³⁹ See *id.* at 46.

⁴⁰ See RESA Testimony, at 46-47.

⁴¹ Cf. *id.* at 30 (“However, individual retail suppliers engage in different wholesale procurement strategies and hedge power at different times and in different ways. The diversity of these business practices can allow some suppliers to be more competitive versus others and the standard service rate at different points in time.”).

⁴² See *id.* at 51, 52 (listing specific enrollment incentives and value-added components of competitive supply offerings); Rate Board, https://energizect.com/compare-energy-suppliers?field_edc_value=ES&field_rate_type_value=Residential&op=Compare+Now (last visited Jan. 4, 2022) (showing residential supplier offers in the Eversource service territory providing premium renewable energy content and various enrollment rewards).

⁴³ See RESA Testimony, at 55-56; see also Community Energy, CTCleanEnergyOptions Program, <https://www.communityenergyinc.com/products/connecticut-clean-energy> (last visited Jan. 5, 2022) (offering 100% Northeast Wind and Solar renewable energy credits for 2.9 cents per kilowatt-hour).

⁴⁴ See RESA Testimony, at 58.

Moreover, to remain competitive in the marketplace and to continue to attract and retain customers, suppliers, like market participants in other sectors of the economy, must continually review and enhance their product offerings. This process frequently leads to new, innovative products and services. For example, this process has produced extraordinary innovation in telecommunications since the breakup of the AT&T monopoly in the early 1980s.⁴⁵ Indeed, since that time, telecommunications technology has moved from rotary telephones⁴⁶ to 5G.⁴⁷ As competitive electric markets continue to develop, comparable levels of innovation and technological progress will occur. In fact, suppliers already offer a variety of innovative products in well-developed, competitive markets.⁴⁸ Consequently, because competitive supply products can provide features, and offer value, that six-month Standard Service rates do not, any comparison of supply prices to Standard Service rates is inapposite.

B. Features Of Standard Service Prevent Standard Service Rates From Being Properly Compared With Competitive Supply Prices

Not only do features of competitive supply offers prevent a straightforward comparison of competitive supply price and Standard Service rates, but aspects of Standard Service further frustrate a meaningful comparison. First, Standard Service rates are subject to EDC cost

⁴⁵ See, e.g., Could The Old AT&T Break-Up Offer Lessons For Big Tech Today?, <https://www.npr.org/2019/06/26/736344175/could-the-old-at-t-break-up-offer-lessons-for-big-tech-today> (Jun. 26, 2019) (“It was necessary to get AT&T out of the way to create the space for the great renaissance in technology that has driven a lot of the U.S. economy since the 1980s.”) (quoting Steve Coll) (last visited Jan. 5, 2022).

⁴⁶ Model 500, Cooper Hewitt, Smithsonian Design Museum, https://www.si.edu/object/model-500:chndm_2009-50-1-a_c (last visited Jan. 5, 2022).

⁴⁷ See, e.g., What is 5G, <https://www.verizon.com/about/our-company/5g/what-5g> (last visited Jan. 5, 2022).

⁴⁸ See, e.g., New York Public Service Commission Case 15-M-0127, *In the Matter of Eligibility Criteria for Energy Service Companies*, Case 12-M-0476, *Proceeding on the Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State*, Case 98-M-1343, *In the Matter of Retail Access Business Rules*, Direct Testimony of Frank Lacey on Behalf of The Retail Energy Supply Association, Exhibit 4 (Sep. 15, 2017) (available at: <https://documents.dps.ny.gov/public/MatterManagement/MatterFilingItem.aspx?FilingSeq=193395&MatterSeq=47597>) (providing examples of innovative product offerings available from suppliers).

reconciliation.⁴⁹ To the extent Eversource or UI fails to recover its costs fully during one period, it has the ability to reconcile rates and account for the under collection in a future period.⁵⁰

Suppliers do not have this ability and must reflect all costs in contracted rates.⁵¹

Second, there are significant costs associated with the provision of Standard Service that have not been fully allocated to Standard Service rates.⁵² Because the EDCs provide both fully regulated distribution service and Standard Service, certain costs that are related to the supply function are improperly recovered through distribution rates.⁵³ For example, the EDCs' costs associated with customer care, credit and collections, information systems, general overhead and personnel, collateral costs, consulting/legal fees, certain ISO costs, etc. are recovered through delivery rates and charges that all customers, shopping and non-shopping, must pay.⁵⁴ Thus,

⁴⁹ See, e.g., Docket No. 22-01-01, *Administrative Proceeding to Review The Connecticut Light and Power Company's Standard Service and Supplier of Last Resort Service 2022 Procurement Results and Rates*, Motion No. 1 Ruling (Nov. 5, 2021), at 4 (approving Eversource Standard Service rates "subject to reconciliation"); RESA Testimony, at 39.

⁵⁰ See RESA Testimony, at 39.

⁵¹ See *id.* at 39.

⁵² See Testimony of NRG Energy, Inc. Before the Connecticut General Assembly Energy and Technology Committee In opposition to: RC 6526, An Act Concerning Electric Suppliers (Mar. 4, 2021) (available at: <https://www.cga.ct.gov/2021/etdata/tmy/2021HB-06526-R000304-Lacey,%20Frank-NRG%20Energy%20Inc.-opposition-TMY.PDF>) ("NRG Testimony"), at 2; RESA Testimony, at 39.

⁵³ See NRG Testimony, at 2 ("[T]he utilities in Connecticut do not include any costs to serve or service their customers in their standard service rates. For example, the cost to generate and send a bill for standard service to a customer is paid fully by distribution ratepayers. The operational cost related to technology hardware, IT services, facilities and human resources is currently borne by distribution ratepayers. The cost of nearly every employee engaged in the provision of standard service is paid by distribution customers. Utilities in Connecticut do not even allocate accounting resources to count the hundreds of millions of dollars in revenues received by its standard service business. Even the people that count the standard offer revenues are paid with distribution rates."); see also RESA Testimony, at 39.

⁵⁴ See NRG Testimony, at 2; cf. RESA Testimony, at 39.

Standard Service rates are artificially low,⁵⁵ potentially significantly so.⁵⁶ For instance, forensic accounting and studies of default service rates in other states have found that the improper allocation of supply related costs to delivery rates can result in default service rates that are *one to two cents* less than they would be if costs were properly allocated.⁵⁷ Consequently, any comparison of competitive supply prices to Standard Service rates is improper.⁵⁸

IV. ANY INVESTIGATION WOULD BE PREMATURE

In addition to being meritless, the Motion is also ill-timed. Public Act No. 21-117 amended Connecticut General Statutes section 16-245o(g) to provide:

Notwithstanding any provision of title 16, on and after July 1, 2022, no electric supplier shall charge a residential customer a variable rate for electric

⁵⁵ See NRG Testimony, at 2; see also RESA Testimony, at 39.

⁵⁶ See NRG Testimony, at 3 (“The magnitude of these unallocated costs is meaningful and has a significant impact on the competitive retail electric market.”); Who’s The Buyer? Retail Electric Market Structure Reforms in Support of Resource Adequacy and Clean Energy Deployment” (March 2020) (available at: <https://windsolaralliance.org/wp-content/uploads/2020/03/WSA-Retail-Structure-Contracting-FINAL.pdf>) (last visited Jan. 4, 2022), at 11 (“Utilities do not include in default service rates any costs for billing or billing systems, rents, computers, accounting services, call centers or any other business functions required to deliver default service. This results in a subsidy of about 1-2 cents per kWh that suppliers must overcome in order to compete with the default service pricing.”) (footnote omitted).

⁵⁷ See NRG Testimony, at 3 (“NRG commissioned a forensic accountant to analyze the costs that should be allocated at utilities in Pennsylvania and Maryland, and found that the subsidy was equal to 1.25 cents per kWh in Pennsylvania and 1.18 cents per kWh in Maryland. Similar studies performed in other states show the magnitude of these subsidies to be between \$0.01 to \$0.02 cents per kWh.”); Who’s The Buyer? Retail Electric Market Structure Reforms in Support of Resource Adequacy and Clean Energy Deployment” (March 2020) (available at: <https://windsolaralliance.org/wp-content/uploads/2020/03/WSA-Retail-Structure-Contracting-FINAL.pdf>) (last visited Jan. 4, 2022), at 11 (“Utilities do not include in default service rates any costs for billing or billing systems, rents, computers, accounting services, call centers or any other business functions required to deliver default service. This results in a subsidy of about 1-2 cents per kWh that supplier must overcome in order to compete with the default service pricing.”) (footnote omitted).

⁵⁸ Cf., e.g., Maryland Public Service Commission Case No. 9610, Prepared Direct Testimony of Frank Lacey on Behalf of the Energy Supplier Coalition (Sep. 10, 2019), at 23 (explaining the effects of misallocating utility costs to utility default service); New York Public Service Commission Case 15-M-0127, *In the Matter of Eligibility Criteria for Energy Service Companies*, Case 12-M-0476, *Proceeding on the Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State*, Case 98-M-1343, *In the Matter of Retail Access Business Rules*, Direct Testimony of Frank Lacey on Behalf of The Retail Energy Supply Association (Sep. 15, 2017; Rev. Dec. 1, 2017), at 68-69 (discussing importance of proper cost allocation); see also Who’s The Buyer? Retail Electric Market Structure Reforms in Support of Resource Adequacy and Clean Energy Deployment” (March 2020) (available at: <https://windsolaralliance.org/wp-content/uploads/2020/03/WSA-Retail-Structure-Contracting-FINAL.pdf>) (last visited Jan. 4, 2022); The Electricity Journal 32, F. Lacey, “Default service pricing – The flaw and the fix: Current pricing practices allow utilities to maintain market dominance in deregulated markets” (Feb. 2019) (available at: <https://www.resausa.org/sites/default/files/EJ%20Cost%20Allocation%20Article%20-%20Published.pdf>).

generation services. On and after July 1, 2022, any contract between an electric supplier and a residential customer that provides for the use of such variable rates shall be deemed null and void.⁵⁹

By enacting this provision, the General Assembly plainly intended to make changes to the competitive electric supply market that it thought would benefit customers. Currently, however, because those changes have not yet been implemented, their effect on competitive supply offers is not and cannot be known. Investigating supplier offers shortly before a significant change to the market, which the Authority expects will result in lower prices to customers,⁶⁰ is likely to produce conclusions that will be superseded and rendered merely academic once the market change is implemented. Thus, the Authority should not undertake an investigation of supplier offers pursuant to Connecticut General Statutes section 16-245(a) until after Public Act No. 21-117, section 4 has been fully implemented.

CONCLUSION

For the reasons set forth above, the Authority should deny the Motion.

⁵⁹ P.A. 21-117, § 4.

⁶⁰ *Accord* Testimony of Marissa P. Gillett, Chairman, Public Utilities Regulatory Authority, Before the Connecticut General Assembly Energy and Technology Committee in support of Raised H.B. 6526 - An Act Concerning Electric Suppliers (Mar. 4, 2021) (available at: <https://cga.ct.gov/2021/ETdata/Tmy/2021HB-06526-R000304-Gillett,%20Marissa-Chairman-PURA-Support-TMY.PDF>), at 1 (“Based on the Authority’s review of applicable contracts, affected customers are paying more than 12 cents per kWh, and some are paying as much as almost 20 cents per kWh, compared to a standard service rate that has ranged between 7 and 8 cents per kWh during the same time frame.”).

Respectfully submitted,
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DIRECT ENERGY SERVICES, LLC;
DIRECT ENERGY BUSINESS, LLC;
DIRECT ENERGY BUSINESS MARKETING, LLC;
ENERGY PLUS HOLDINGS LLC;
INDEPENDENCE ENERGY GROUP LLC;
RELIANT ENERGY NORTHEAST LLC;
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CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants of record on this
6th day of January 2022.


Joey Lee Miranda