

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

November 22, 2023

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

Re: **Docket No. 16-12-29RE01: PURA Development of Voluntary Renewable Options Program - Modification of Implementation Dates**

Dear Mr. Gaudiosi:

Attached are the Comments of Retail Energy Supply Association in response to the Public Utilities Regulatory Authority's ("PURA") November 8, 2023 November 8, 2023 Notice of Request for Written Comments & Notice of Hearing Request in the above-referenced docket.

I certify that a copy of this filing has been sent to all participants of record as reflected on PURA's service list. In accordance with PURA's instructions, "only an electronic copy through the PURA Web Filing System" is being submitted.¹

Please feel free to contact me if you have any questions or require additional information. Thank you.

Sincerely,


Joey Lee Miranda

Attachment

Copy to: Service List

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

STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

PURA DEVELOPMENT OF VOLUNTARY : DOCKET NO. 16-12-29RE01
RENEWABLE OPTIONS PROGRAM – :
MODIFICATION OF IMPLEMENTATION :
DATES : NOVEMBER 22, 2023

COMMENTS OF RETAIL ENERGY SUPPLY ASSOCIATION

The Retail Energy Supply Association (“RESA”)¹ hereby submits its comments in response to the Public Utilities Regulatory Authority’s (“Authority”) November 8, 2023 Notice of Request for Written Comments & Notice of Hearing Request in the above-captioned proceeding.²

BACKGROUND

On August 3, 2021, the Authority opened this proceeding for the limited purpose of modifying certain implementation dates in the Docket No. 16-12-29 October 21, 2020 Decision (“Decision”).³ Subsequently, the Authority issued a Notice of Stay “suspending this proceeding until further notice.”⁴

On November 3, 2023, the Authority lifted the stay and requested that the Office of Education, Outreach, and Enforcement (“EOE”) file proposed modifications to the implementation dates set forth in the Decision.⁵ On November 7, 2023, EOE submitted a

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 Notice of Request for Written Comments & Notice of Hearing Request (Nov. 8, 2023) (“Notice”).

³ *Id.* at 1.

⁴ *Id.*

⁵ *Id.*

proposal recommending that: (a) the disclosure label working group be required to submit proposed disclosure labels for the Authority’s consideration by December 15, 2023; (b) beginning with the 2024 compliance year, suppliers provide certain documentation to support their voluntary renewable offers (“VROs”) load and settlement compliance; and (c) “[e]ffective January 1, 2024, all new and renewing VRO offers must comply with the rules and standards established herein for all customer enrollments.”⁶

On November 8, 2023, the Authority issued the Notice requesting comments regarding the EOE Proposal. RESA hereby submits its comments in response to the Notice.

COMMENTS

While RESA appreciates the Authority’s desire to move quickly, it will take time for suppliers to implement the requirements of the Decision. Thus, for the reasons set forth more fully below, RESA requests that the Authority require that all new and renewing VROs comply with the rules and standards established in the Decision effective ninety (90) days after the Authority approves the new disclosure labels.

I. SUPPLIERS DID NOT HAVE NOTICE OF THE POTENTIAL NEW COMPLIANCE DATE UNTIL TWO WEEKS AGO

While, like the Authority, suppliers were aware that the Connecticut Supreme Court issued a decision in July, they did not know until ninety (90) days thereafter, whether the appellants would seek a further review of that decision.⁷ Nor did suppliers know when the Authority would lift the stay.⁸ Further, although the stay was not lifted until four months after the

⁶ See EOE November 3 Procedural Order Compliance Filing (Nov. 7, 2023) (“EOE Proposal”), at 1.

⁷ United States Supreme Court Rules, Rule 13(1) (“Unless otherwise provided by law, a petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court of last resort . . . is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment.”).

⁸ See Notice of Stay of Proceeding (Sep. 4, 2021) (suspending “this proceeding *until further notice*”) (emphasis added).

Connecticut Supreme Court decision was issued,⁹ suppliers did not know that they could be required to implement the changes necessary to comply with the Decision for new and renewing VROs in less than thirty (30) days from an Authority decision approving new compliance dates¹⁰ or during the holidays when members of the teams needed to implement the necessary changes to comply with the Decision's requirements would be on holiday and/or vacation leave.¹¹

II. THE DISCLOSURE LABEL IS REQUIRED FOR SUPPLIER COMPLIANCE

EOE has proposed that suppliers be required to comply with the substantive requirements for new and renewing VROs by January 1, 2024.¹² As the Authority is aware, one of those requirements is that suppliers provide customers with the new forward looking disclosure labels before enrolling them in VROs and post those disclosure labels on their websites.¹³ However, EOE has proposed that the disclosure label working group *submit* the draft labels to the Authority for review and approval by December 15, 2023 (or, a later date, if the Authority finds that holidays would make it difficult for the working group to meet that deadline and the Authority to approve the label).¹⁴

⁹ See Notice of Lifting of Stay of Proceeding & Procedural Order (Nov. 3, 2023) (noting that Connecticut Supreme Court issued a decision on July 4 and lifting the stay on November 3).

¹⁰ See Notice, at 2 (indicating that, *if* a hearing is not requested, the Authority expects to issue a decision setting forth the proposed modified compliance dates on December 7, 2023); EOE Proposal, at 1 (recommending the disclosure label be submitted for approval by December 15 and suppliers be required to comply with the Decision requirements for new and renewing VROs by January 1).

¹¹ Cf. EOE Proposal, at 2 (noting that the disclosure label working group and/or Authority may require more time due to the holidays).

¹² *Id.* at 1.

¹³ Decision, at 36 (“The statute requires that a supplier marketing a VRO provide information to substantiate such claims on its website. The Authority will require that any offer posted to the Rate Board include a link to the Disclosure Label for each product. This includes RPS, VRO, and REC-only offers. In addition, the supplier must provide its customers with the information necessary to substantiate their prospective claims as well as past VRO claims on their website. The supplier’s website must also provide the Disclosure Label for any offer that is not listed on the Rate Board, such as offers that are sold through telemarketing, direct mail, or that otherwise may not be generally available.”).

¹⁴ EOE Proposal, at 1, 2.

The process of revising, printing and distributing new disclosure labels, while not as operationally complex as some of the other changes needed to comply with the substantive requirements for offering VROs,¹⁵ will still take time. Moreover, some suppliers rely on outside vendors to print and distribute their materials. Those vendors will also require time to incorporate the new disclosure labels into their processes. Further, during the week of December 25, suppliers and their vendors will have reduced staff on hand to implement the required changes.

Assuming the disclosure label working group can meet that proposed timing, even if the Authority were to approve the labels as submitted on the same day, suppliers (and their vendors) would have only nine (9) business days to modify all of their materials and processes to incorporate those new labels. This is simply not enough time. Moreover, if the date that the working group submits the disclosure labels for approval is extended or the Authority does not approve the labels the very same day, suppliers will have even less time. Because the disclosure labels are necessary for supplier compliance with the requirements for offering VROs,¹⁶ RESA requests that the Authority establish the date by which suppliers must comply with the Decision based on the date on which the Authority approves the new disclosure labels. In this way, if that date slips for any reason, suppliers will still be provided adequate time to comply with the requirements of the Decision without the need to seek extensions of time from the Authority; thereby, increasing administrative efficiency.

¹⁵ See Section III *infra*.

¹⁶ Decision, at 36 (“The statute requires that a supplier marketing a VRO provide information to substantiate such claims on its website. The Authority will require that any offer posted to the Rate Board include a link to the Disclosure Label for each product. This includes RPS, VRO, and REC-only offers. In addition, the supplier must provide its customers with the information necessary to substantiate their prospective claims as well as past VRO claims on their website. The supplier’s website must also provide the Disclosure Label for any offer that is not listed on the Rate Board, such as offers that are sold through telemarketing, direct mail, or that otherwise may not be generally available.”).

III. SUPPLIERS REQUIRE MORE TIME TO IMPLEMENT THE OTHER REQUIREMENTS OF THE DECISION

As practical matter, although suppliers can stop selling VROs to new customers that do not satisfy the requirements of the Decision almost immediately, they require time to transition customers that are renewing on to VROs. In order to make those transitions, suppliers must first identify parties that are willing to offer renewable energy credits (“RECs”) and/or power purchase agreements (“PPAs”) that satisfy the obligations of the Decision. Suppliers must then negotiate the agreements for those transactions. Once suppliers have entered into those transactions, they must then determine the prices that they will charge customers and prepare renewal notices and disclosure labels and update their websites.¹⁷

Once the suppliers know the prices that they will charge residential customers at renewal, they must send those prices to the electric distribution companies (“EDCs”) at least sixty two days in advance of the bill cycle date on which they will become effective.¹⁸ Once the renewal notices are prepared, they must be sent to residential customers 30-60 days before the customer’s current fixed price expires.¹⁹ Further, if the price of the renewal will increase by more than

¹⁷ See Conn. Gen. Stat. § 16-245o(h)(6) (“Any electric supplier offering any services or products that contain renewable energy attributes other than the minimum renewable energy credits used for compliance with the renewable portfolio standards pursuant to section 16-245a shall disclose in each customer contract and marketing materials for each such service or product the renewable energy content of the product or service offering and shall make available, on the electric supplier’s Internet web site, information sufficient to substantiate the marketing claims about such content.”).

¹⁸ Docket No. 14-07-19RE05, *PURA Investigation Into Redesign of the Residential Electric Billing Format – Review of Summary Information, Implementation and Display*, Decision (Dec. 19, 2018), at 35 (“[T]he Next Cycle Rate must be submitted no later than 62 days prior to the start of the consumption period in which that rate will be assessed and cannot be changed.”).

¹⁹ Conn. Gen. Stat. § 16-245o(g)(1).

twenty five percent from the price a residential customer is currently paying,²⁰ suppliers must also prepare and send a price increase notice at least thirty (30) days before the price change.²¹

Each of these steps takes time and, generally, are not performed by the same person or team at a supplier. Thus, the information has to be communicated across and incorporated into the materials and processes of multiple teams and, in some cases, into the materials and processes of third-party vendors. Accordingly, RESA requests that the Authority set the deadline for supplier compliance with the substantive requirements for offering new and renewing VROs as ninety (90) days from the date the Authority approves the new disclosure labels. This will provide customers with the ability to continue to purchase VROs without interruption and suppliers with sufficient time to incorporate the necessary changes to comply with the requirements of the Decision and send the pricing for residential customer renewals to the EDCs at least sixty two (62) days before the bill cycle date on which the prices will become effective and the required renewal and/or price increase notices to customers.


CONCLUSION

For all the foregoing reasons, RESA requests that the Authority require that all new and renewing VROs comply with the rules and standards established in the Decision effective ninety (90) days after the Authority approves the new disclosure labels.

²⁰ Cf. Docket No. 07-01-09, *DPUC Consideration of The Connecticut Clean Energy Options Program for 2008 – Eligibility of Renewable Energy Credits*, Interim Decision (Sep. 27, 2007), at 6 (recognizing “the linkage between limiting geographic eligibility and upward pressure on resource prices.”).

²¹ Conn. Gen. Stat. § 16-245o(g)(3) (“No electric supplier shall charge an electric generation service rate to a residential customer that is twenty-five per cent more than the original contract price, or more than the first price term offered in the contract, without notifying such customer of the rate change thirty days before it takes effect.”); Docket No. 13-07-18, *PURA Establishment of Rules for Electric Suppliers and Electric Distribution Companies Concerning Operations and Marketing in the Electric Retail Market*, Decision (Nov. 5, 2014), at 15 (requiring separate contract expiration and price increase notices).

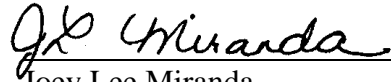
Respectfully submitted,
RETAIL ENERGY SUPPLY ASSOCIATION

By 

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

CERTIFICATION

I hereby certify that a copy of the foregoing was sent to all participants of record on this
22nd day of November 2023.



Joey Lee Miranda