

**STATE OF CONNECTICUT**  
**DEPARTMENT OF PUBLIC UTILITY CONTROL**

RE: APPLICATION OF THE : DOCKET NO. 07-07-01  
CONNECTICUT LIGHT AND :  
POWER COMPANY TO AMEND :  
RATE SCHEDULES : DECEMBER 19, 2007

**REPLY BRIEF OF**  
**ENVIRONMENT NORTHEAST**

**I. THE DECOUPLING ISSUE IN THIS PROCEEDING IS HOW TO**  
**IMPLEMENT THE STATUTORY MANDATE THAT REVENUES BE**  
**DECOUPLED FROM SALES.**

In their briefs, the Office of Consumer Counsel (OCC), the Connecticut Industrial Energy Consumers (CIEC) and the Attorney General (AG) have provided extensive commentary on whether there is a need for decoupling revenues from sales and whether it represents sound state policy. See OCC Brief at 102-108, CIEC Brief at 78-83 and AG Brief at 32-36. While this is an interesting topic which ENE is happy to address in an appropriate forum, it is not relevant to the issues in this docket. In the 2007 session, the General Assembly enacted a statute which requires the Department to “order the state’s gas and electric distribution companies to decouple distribution revenues from the volume of natural gas or electricity sales through any of the following strategies singly or in combination...” Public Act No. 07-242, Sec. 107(“Section 107”). Accordingly, the issues in this docket are (1) whether the Company’s proposed mechanism meets the statutory requirements that it “decouple distribution revenues from sales” and, if so, (2) whether the proposed mechanism falls within the listed strategies or should be revised in some manner consistent with these requirements. If any party wishes to challenge the statutory mandate, the appropriate forum is the General Assembly, not the Department.

Despite the clear language of the statute, OCC argues that Section 107 does not “prescribe... the overall scope of decoupling contemplated” and that “broad-scale decoupling” is incompatible with “traditional ratemaking principles” embodied in unnamed sections of Title 16 of the Connecticut General Statutes.<sup>1</sup> In fact, the scope of Section 107 is established by the language—distribution revenues are to be decoupled from sales volumes.

The meaning of revenue decoupling in ratemaking practice was confirmed by Dr. Briden: “...revenue decoupling (‘decoupling’) refers to a family of rate structures through which a public utility’s revenue stream is made independent of (or, ‘decoupled’ from) the actual level of sales the utility experiences in a particular period.” Briden Testimony at 7.<sup>2</sup> Mr. Arnett, on behalf of CIEC and Dr. Hansen, on behalf of ENE, asserted a similar understanding of “decoupling.” Mr. Arnett described decoupling as divorcing “sales from revenues.” Arnett Testimony at 4. Dr. Hansen described it as a mechanism which removes “the link between sales and revenues.” Hansen Testimony at 3. These witnesses also agreed that current ratemaking practices provide a disincentive to promoting sales reductions because it would reduce revenues.<sup>3</sup> Thus, by requiring “decoupling” the statute clearly directs that the existing link between sales and distribution revenues be eliminated through one or more of the listed strategies.

The OCC claim that the statutory provisions are limited by unspecified “traditional rate-making principles” is “supported” in part by a resolution opposing revenue decoupling by the National Association of State Utility Consumer Advocates, a voluntary association of which OCC is a member. OCC Brief at 100. The resolution contains no reference to Connecticut law and the suggestion that a statutory mandate could be limited by the resolutions of this organization is plainly incorrect.

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<sup>1</sup> OCC Brief at 99, 100. The principal authority cited for these dubious propositions is Dr. Briden who specifically noted that he was not a lawyer and was “nervous” about interpreting public laws. Tr. 10/22 at 1790.

<sup>2</sup> Dr. Briden goes on to argue extensively in his written testimony (pp. 9-22) that revenue decoupling is poor public policy and should not be implemented. As is discussed above, this is not a subject for debate in this proceeding due to the statutory mandate.

<sup>3</sup> Tr. 10/22 at 1777 (Briden); Arnett Testimony at 5; Hansen Testimony at 3.

Similarly, OCC's claim that any increase in fixed customer charges would "fully satisfy Section 107" is also incorrect. See OCC Brief at 99. Again, the fundamental requirement of the statute is that the link between distribution revenues and sales be severed through the use of one or more enumerated strategies. Increasing the fixed charges by itself would only meet the statutory requirement if it eliminated all recovery of distribution revenues through volumetric kWh or kW charges. Otherwise, distribution revenues would not be independent of sales volumes and the mechanism would not meet the statutory requirement. The other two strategies (adjusting distribution revenues to allowed levels and a sales adjustment clause) could easily meet the requirement with appropriate mechanisms such as the revenue per customer approach proposed by CL&P in this docket. However, adjusting fixed charges to eliminate all volumetric distribution charges would require dramatic increases in those charges and would violate statutory policies that rates encourage conservation.<sup>4</sup> The statute appropriately provides that one or more of the enumerated strategies may be employed in order to insure that the mandate can be achieved.

CIEC requested that all industrial and large commercial customers be exempt from the revenue decoupling mechanism on the grounds that these customers do not need assistance from the utilities to pursue energy efficiency. CIEC Brief at 92-93. CIEC is apparently unaware of the fact that about 60% of the program funding from the Connecticut Energy Efficiency Fund supports efficiency investments for commercial and industrial customers, principally for larger customers.<sup>5</sup> The short answer to this request is that the statute does not allow for any such exemption. It requires that all distribution revenues be decoupled from sales. CIEC also raised concerns that the class true-up might be unduly affected if a customer left or joined a small class and that the Company is already compensated for lost revenues from some customers who use distributed generation. CIEC Brief at 93-94. As Mr. Goodwin indicated, these concerns are not significant. See Tr. 10/18 at 1669. CL&P's proposed decoupling mechanism relies on a true-up of all classes which results in a uniform per kWh adjustment. Goodwin Testimony at 26. Thus, any class anomalies will be subsumed in the overall average. The treatment of the "lost revenues" received for DG customers can be handled in a number of ways. The simplest appears to be ensuring that they are included in the actual distribution revenues which are subject to the true-up.

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<sup>4</sup> Goodwin Testimony at 20, 21; see ENE Brief at 5, 6.

<sup>5</sup> See Report of the Energy Conservation Management Board, March 1, 2007 at 26, 27.

## **II. DECOUPLING THROUGH A DISTRIBUTION REVENUE ADJUSTMENT MECHANISM BEST IMPLEMENTS THE STATUTE AND STATE ENERGY POLICIES.**

Among the three statutory strategies for implementing revenue decoupling, adjusting the actual distribution levels to allowed levels is the most direct and consistent with state energy policies as embodied in Connecticut's statutes. The alternative of a sales adjustment clause would likely produce similar results, but would be considerably more complex because it would need to adjust sales volumes for both kWh and kW to "allowed levels" in order to determine the revenue impact. The distribution revenue adjustment would be much simpler to calculate and review. The third alternative of increasing fixed charges is likely only a partial remedy at best, because of the magnitude of the required increases and the impact on state energy policy objectives.

In their briefs, OCC and the AG supported the reinstatement of the Conservation Adjustment Mechanism which was discontinued for CL&P in the mid 1990's<sup>6</sup> and has been generally abandoned in other states as well.<sup>7</sup> Dr. Briden's sole response to this poor record of his preferred (CAM) approach was to say that "some (rate mechanisms) are tossed away, and some of them miraculously come back in a new version." Tr. 10/22 at 1745. Otherwise, he had no experience or analytical reviews to offer with respect to the CAM. See Briden Testimony at 26, 27. Dr. Briden also agreed that, since the CAM is not limited by allowed revenues, it can result in excessive recovery by the utility due to the accumulation of "lost revenues" over time. See Tr. 10/22 at 1756, 1758. As is discussed in detail in ENE's Brief at 7- 8, the CAM is not an option for meeting the statutory mandate because it is not one of the strategies listed in Section 107 and it does not decouple distribution revenues from sales volumes.

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<sup>6</sup> Docket No. 05-09-09, DPUC Investigation into Decoupling Energy Distribution Company Earnings from Sales, Jan. 18, 2006 at 17.

<sup>7</sup> LF Ex. 107, Kushler, York and Witte, Aligning Utility Interests with Energy Efficiency Objectives: A Review of Recent Efforts at Decoupling and Performance Incentives, American Council for an Energy-Efficient Economy, Report No. U061, Oct. 2006, at 5, 8.

Arguments against the need for a decoupling mechanism fail to acknowledge the dramatically new demand resource landscape in Connecticut. In their arguments concerning the lack of need for a decoupling mechanism, OCC, CIEC and the AG have accurately observed that CL&P has a good record of performance in implementing energy efficiency programs to date with a limited funding level. The parties believe that these programs can continue along as they have without any policy changes.<sup>8</sup> What they have failed to recognize is that the General Assembly has decided that business as usual is not sufficient given the very high and escalating costs of electricity, natural gas and other fuels, as well as the challenges of combating climate change by reducing greenhouse gas emissions. The most recent expression of this direction is in Public Act 07-242. Under this Act, utility companies must prepare annual procurement plans for resources needed to minimize customer costs, maximize customer benefits and meet greenhouse gas emission goals. . See P.A. 07-242 §§ 51, 52. The Act requires that these “resource needs shall first be met through all available energy resources that are cost-effective, reliable and feasible” and that the distribution companies implement the plans after approval by the Department. Id. Meeting these requirements effectively will require a high degree of commitment on the part of the distribution companies to minimizing the electric use of their customers. In addition, the Act also takes many other steps to reduce consumption, including enhanced appliance efficiency standards, tightened requirements for new large state and commercial buildings, creation of a new Energy Efficiency Partners program, a statewide energy and efficiency education campaign, and funding for natural gas and fuel oil conservation programs.<sup>9</sup>

The decoupling mandate contained in Sec. 107 is an integral part of this new direction. In determining which decoupling strategies to adopt, the Department should consider the impact on promoting efficiency and conservation through the various strategies. Increasing fixed charges does not promote these goals because it necessarily reduces volumetric charges. See ENE Brief at 5-6. Dr. Briden highlighted this problem in his testimony that “the rate design approach to decoupling is *a priori inferior* to the revenue normalization approach” because increasing customer charges “can blunt conservation efforts.” Briden Testimony at 17. Unfortunately, OCC ignored this advice and

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<sup>8</sup> CIEC Brief at 80-81; AG Brief at 32-33; OCC Brief at 106.

<sup>9</sup> See Public Act No. 07-242 at Secs. 10-12, 78, 87, 94, 96, 115, 116, 127.

indicated its full support for the 50% increase in residential customer charges which CL&P incorporated into its decoupling approach. OCC Brief at 122-123.

CL&P's proposed revenue per customer mechanism, excluding the weather normalization proposal, would adjust actual distribution revenues to allowed levels and would thereby decouple revenues from sales volumes. Accordingly, it would meet the statutory requirements. It would also avoid the negative effects on customer conservation incentives created by higher fixed charges. It is a symmetrical mechanism which would provide credits to customers for periods when the actual revenues exceed those allowed and charges when they fall short. Thus, it would reduce risk for both parties by enabling customers to avoid over collections of distribution revenues and utilities to avoid under collections. The actual direct financial impact on customers of this mechanism would likely be very minor as shown in ENE's Brief at 3. However, the potential customer benefits of removing the utility's disincentive to support reductions in consumption are substantial, as it would enable the Company to make a much stronger commitment to supporting the broad range of activities necessary to achieve high levels of energy efficiency in the State. This mechanism – without weather normalization - should be adopted as the principal strategy for implementing the statutory mandate with only minimal changes in customer charges.

### **III. CL&P'S WEATHER NORMALIZATION COMPONENT WOULD INCREASE WEATHER IMPACTS ON CHARGES, IS ENTIRELY UNNECESSARY AND SHOULD BE ELIMINATED.**

CL&P has proposed a peculiar version of weather normalization as a component of its decoupling mechanism. ENE's Brief demonstrated that this mechanism would actually enhance the impact of weather on customers in a counter-productive fashion—bills would be increased over current levels with respect to extreme weather conditions when customers are already paying more for energy and decreased over current levels when customers are consuming and paying less. ENE Brief at 3-5. Although OCC professes bafflement at the Company's proposal, it apparently agrees that these would be the results and it believes that this kind of enhanced bill volatility is good for consumers. OCC Brief at 117-118. Presumably, if the weather impact could somehow be further increased, OCC would find that even more desirable.

The OCC position on weather risks for consumers is similarly lacking in content. Dr. Briden's expert opinion is that "weather risk... is a non-event for both the company and ratepayers" because "half the time it's cold, half the time it's warm" and "normal weather will prevail". Therefore, if consumers "play the game long enough, they'll discover the weather risk goes away completely." Tr. 10/22 at 1747-1749; OCC Brief at 102-103. Although OCC claimed that Dr. Briden's position on this issue was "unrefuted", Dr. Hansen provided a more thoughtful analysis of weather normalization and its value in a decoupling context. He showed that CL&P's revenue decoupling approach alone would eliminate weather risks for both the Company and customers without a weather normalization component. He also demonstrated that an inherent problem of weather normalization is the difficulty of determining "normal weather" for future periods and that factors such as global warming are likely to skew the results. Hansen Testimony at 6-9. As CIEC pointed out in its Brief, that is precisely what has happened with respect to Southern Connecticut Gas Company's weather normalization adjustments where customers have been charged \$34.3 million over 11 years and have received only \$6.7 million in credits.<sup>10</sup>

CL&P's proposed weather normalization component would exacerbate the impact of weather on customers and is entirely unnecessary because the revenue decoupling adjustment would, by itself, eliminate weather risk for both customers and the Company. Accordingly, the Department should remove the weather normalization component before approving CL&P's decoupling proposal.

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<sup>10</sup> Docket No. 05-09-09, DPUC Investigation into Decoupling Energy Distribution Company Earnings from Sales, Jan. 18, 2006 at 6; CIEC Brief at 93.

Respectfully submitted,  
Environment Northeast

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By: Roger E. Koontz  
Jeremy McDiarmid  
Its Attorneys

cc. Service List