

OFFICE OF CONSUMER COUNSEL

At a Glance

MARY J. HEALEY, Consumer Counsel

Established – 1975

Statutory Authority – Conn. Gen. Statutes sec. 16-2a

Central Office – Ten Franklin Square, New Britain, CT 06051

Website: www.ct.gov/occ

Average number of full-time employees – 16

Recurring operating expenses - \$2.4 million

Capital expenditures - \$23,268.00

Mission

The Office of Consumer Counsel (OCC) is the State of Connecticut's statutory advocate for all utility ratepayers. OCC seeks to ensure just and reasonable rates and reliable utility service for customers of Connecticut's electric, gas, telephone, and water utilities and reasonable protections for cable television customers. OCC's advocacy includes the promotion of beneficial policies for ratepayers, such as the conservation of energy resources. We participate actively in proceedings before the Connecticut Department of Public Utility Control (DPUC), the Federal Energy Regulatory Commission (FERC), the Federal Communications Commission (FCC), and state and federal courts. We also seek to advance the goals and protect the needs of ratepayers at the State Legislature and the U.S. Congress.

Improvements/Achievements 2006-07

Over \$750 million in direct savings to Connecticut ratepayers was achieved this year by the Office of Consumer Counsel (OCC) through its work on behalf of Connecticut ratepayers. The OCC continued its advocacy in the four forums in which it has appeared for 32 years: in the hearing rooms of the DPUC and before the FERC; in state and federal courts; at the Connecticut legislature; and through its membership in state and national professional organizations, boards and committees representing ratepayers' views.

1. **Ratepayers' Voice in the DPUC Hearing Rooms:** Electric rates in Connecticut, already high, have been going up substantially. For customers of The Connecticut Light and Power Company (CL&P), the Transitional Standard Offer (TSO) rates went up in 2005 and 2006, and Standard Service (SS) and Last Resort Service (LRS) rates went up in 2007. For customers of The United Illuminating Company (UI), the TSO rate had been stable in 2005 and 2006, but the new SS and LRS rates were dramatically higher in 2007. The single most important reason for these unwelcome changes is the cost of generation services. OCC has responded to this cost crisis with numerous projects. Our legislative advocacy (discussed specifically in Section 3, below) has focused on initiatives to allow utility-owned generation and to enhance the state's energy efficiency programs. Our advocacy at DPUC has centered on evaluating the SS/LRS procurement efforts by CL&P and UI. In the TSO period (2004-2006), OCC had not been allowed to evaluate the distribution company power procurements. When the SS and LRS procurements began in 2006 (for 2007 and beyond), with public concern mounting over escalating electric rates, DPUC invited OCC to monitor the CL&P and UI purchasing work, and we have done so, participating in eight procurement rounds to date. OCC reported to DPUC that this process generally has been successful, and has improved over time. OCC also has offered specific suggestions for further improvement, particularly relating to actions by UI and by DPUC itself.

The 2005 Energy Independence Act, in its Section 12, required the DPUC to design and carry out a procurement process through which long-term electrical capacity contracts would be acquired from competitive bidders, to support appropriate generation projects or distributed resource projects. The purpose of these contracts, to be fully underwritten by CL&P and UI ratepayers, is to reduce the federally mandated congestion charges that ratepayers otherwise would be required to pay in coming years. In May

2007, the DPUC announced that its consultant was provisionally recommending four specific projects for Section 12 approval. OCC undertook a detailed analysis of the work of this DPUC consultant and concluded that three of the recommended projects were too costly to meet the lowest reasonable cost standard found in the law. Recently, the Department concluded its final Section 12 proceeding, in a decision that accepted all four projects its consultant had recommended. OCC continues to believe that this group of projects is too expensive, even though they will (if built) enhance electrical system reliability across the state.

2. Legal Advocacy

Legal advocacy in Connecticut's courts continued to be a strong focal point this year. In a decision of potential import to ratepayers, on July 26, 2007 the U.S. District Court for the District of Connecticut overturned a DPUC decision that allowed AT&T to offer video services in Connecticut without being subject to cable operator laws or obligations. Supporting the arguments made by the OCC before the DPUC, the Court held that AT&T's Internet-protocol technology provisioning of video (IPTV) remains identical under law with the "cable service" being offered over a "cable system" by a "cable operator," as defined in the federal Cable Act, concluding that the DPUC's decision is therefore preempted by federal law. The federal judge agreed with OCC that AT&T's technology, different from that of traditional cable systems in that it utilizes Internet protocol (similar to email), constituted a "cable service" because, like traditional cable service, its programming is delivered to all subscribers in the same manner as competing video services. In conclusion, the Court held that the DPUC's decision is therefore preempted by federal law. The DPUC promptly indicated that it would abide by the Court's decision and require AT&T to obtain a cable franchise in accordance with the ruling, fulfilling the goals articulated by the OCC throughout the two years this matter unfolded before the DPUC, the state legislature, and a state court, in addition to the federal court which first heard this case one year ago.

Connecticut law governing cable franchising and regulation was changed this year to provide AT&T and any other similar providers with a small handful of regulations and obligations toward the communities they serve, and once such services were offered in a community, would further allow existing cable operators an opportunity to reduce their obligations. The fate of that legislation is unclear since AT&T has now been declared by a federal judge to be a standard cable operator and thus does not qualify for the initial designation, now cutting off the driving force of the statute and effectively rendering it null.

Two electric industry cases, in which OCC defended DPUC decisions against utility challenges, produced wins for ratepayers. In one case, CL&P challenged a DPUC ruling denying rate relief the company sought in connection with its sale of hydropower assets to an affiliate company. The great complexity of this court appeal helped assure that it took many months to resolve. By the time the court ruled in favor of the OCC/DPUC position, its decision (which CL&P did not further appeal) effectively denied the company some \$125 million that it otherwise might have collected from ratepayers. In the other court case, also involving CL&P, the court upheld a DPUC decision relating to refunds ordered for streetlight customers (i.e., numerous Connecticut towns). The key issue in the case was how far back in time the DPUC could reach in ordering refunds. CL&P argued for a shorter refund period and OCC for a longer one. The court decision effectively upheld the principle that the DPUC has broad supervisory and remedial powers over utility operations, given the substantial disarray in CL&P's related record-keeping as shown in the record of the administrative proceeding at DPUC.

3. Legislative Advocacy

OCC was actively engaged in the legislative session this year on behalf of utility customers/ratepayers. As to electricity issues, the most significant piece of legislation that passed was Public Act 07-242, An Act Concerning Electricity and Energy Efficiency. This Act contains some provisions that will be beneficial for customers and others that create concerns. Section 93 of the Act is a very strong provision which ensures that the Regional Greenhouse Gas Initiative ("RGGI"), to which the State is a signatory, will result in benefits to the public and not a windfall for power plant owners. Section 93 requires that the proceeds from the sale of all pollution emissions allowances under RGGI go toward

energy efficiency and the cleanest forms of renewable power. In a similar vein, Section 126 returns \$95 million to the Energy Efficiency and Clean Energy Funds that was taken in prior years to meet the budget. OCC also views Section 51 of the Act favorably, which Section restores a robust electricity planning process to the State. In recognition that something called the "market" is not bringing Connecticut the electricity infrastructure it needs at a reasonable price, Section 51 requires the utilities (CL&P/UI) to submit a procurement plan for energy and efficiency resources, for review by the Connecticut Energy Advisory Board and the Department of Public Utility Control. Also, OCC strongly supports Section 50 of the Act, which would allow the utilities (CL&P/UI) to build small power plants for operation during the summer at traditional, cost-of-service rates. This Section reverses, in part, the full divestiture requirement under so-called electricity restructuring, which restructuring policy has been partially responsible for Connecticut's skyrocketing rates. Having CL&P/UI build some power plants will restore some state control over electricity rates and mitigate the market power of present power plant owners.

4. Participation in Organizations, Committees, Boards

The OCC participated in two subcommittees of the Low Income Energy Advisory Board (LIEAB) this past year, the DPUC Subcommittee and the Conservation Subcommittee. The LIEAB created a new form for the community agencies that brings uniformity to the agencies and utilities in obtaining information from low-income customers.

OCC is a charter member of the Energy Conservation Management Board (ECMB) which oversees the \$90 million Connecticut Energy Efficiency Fund (CEEF). A member of the OCC staff has been either Chair or Vice-Chair of the ECMB since 2004 and will continue so into 2008. This year the Connecticut legislature restored money to the fund (approximately \$27 million per year), which previously had been diverted to offset a Connecticut General Fund deficit. Full funding of the ECMB means, essentially, that once again the ratepayers of Connecticut can take full advantage of programs which deliver a four (4) to one (1) benefit/cost ratio. In its report dated June 2007 entitled "The State Energy Efficiency Scorecard for 2006" the American Council for an Energy Efficiency Economy (ACEEE), recognized Connecticut as number one (1) in the country for energy efficiency. That success was directly related to the work of the ECMB. All in all, energy efficiency remains the cheapest "energy alternative" and the best way to reduce cost, save resources and help the environment.

The Consumer Counsel serves as Treasurer of the National Association of State Utility Consumer Advocates (NASUCA), and is actively engaged with this national group of ratepayer advocates who appear and/or provide testimony before the FERC, the FCC and the U.S. Congress providing the ratepayer perspective on energy policies of national import. The Consumer Counsel also was recently elected to represent the small consumer sector on the North American Electric Reliability Council (NERC), an organization which has responsibility to assure the reliability of the electric grid in the U.S., Canada and Mexico.

Information Reported as Required by State Statute

The Office of Consumer Counsel's Affirmative Action Biennial Plan was approved by the Commission on Human Rights and Opportunities on April 11, 2006. OCC continues its strong commitment to the policies, principles and practices that promote equal employment opportunity in contracts, programs and agency policies, including affirmative action. The agency has developed and implemented hiring and contracting goals to maintain a diversified work force. All OCC policies and procedures are consistent with state and federal reporting procedures.