



OCC Newsletter

Spring 2005

Energy Efficiency at State Facilities

Once again the OCC is leading the charge in energy efficiency, lowering bills, and changing the energy paradigm in Connecticut.

In a letter dated December 21, 2004, Governor M. Jodi Rell requested the OCC, along with the Connecticut Department of Public Utility Control and The Connecticut Energy Conservation Management Board, to "prepare a report, with recommendations, which when implemented, would reduce the energy consumption in state buildings and reduce the impact of the recent increase in electric rates on the state budget".

The report, (attachments include previous studies and a "report card") among other things, outlines the energy and electricity costs for State facilities, past conservation efforts to reduce electric consumption and recommendations to reduce electric usage, which accounts for 70% of state energy costs.

Highlights of the report include: that the state of Connecticut can easily reduce its energy consumption by 10%. Additionally, the report indicates a need to install a "culture of energy efficiency throughout state government", which starts at the top. Finally, it includes the need to "create a single point of contact for planning and responsibility for energy efficiency for all state agencies".

The report was delivered to the Governor on February 1, 2005.



OCC at the state Supreme Court:

Tele Tech v. DPUC & OCC: The OCC scored a win at the state Supreme Court regarding a payphone company with a penchant for ripping off consumers, which affected the authority of regulators to generally stop such practices. While the Court held that the DPUC had failed to properly provide the payphone provider with adequate notice requirements, the OCC's arguments concerning the equities involved between consumer rights and those of the delinquent pay phone company carried the day.

SNET Work Stoppage: This case relates back to a 1998 strike of over 3 weeks at SBC Connecticut, and the interpretation of a state statute promulgated to protect consumer quality of service and rate payments. Amazingly, SBC Connecticut continues to believe that it should have the right to allow the quality of service to decline, while continuing to charge rates based on normal conditions of service. The OCC believes that ratepayers should get what they pay for, and so argued at the state Supreme Court this past fall, after many arguments at the DPUC, as well as the Superior and Appellate Courts. Judging by the pattern of questions from the justices, the OCC is hopeful for a positive decision from the high court in the late spring of 2005. This would result in a return of nearly \$3 million to ratepayers.

OCC Joins Other State Agencies in Challenging FERC Orders Relating to Electric Capacity Payments

On November 8, 2004, the Federal Energy Regulatory Commission ("FERC") issued two orders in related, highly-publicized electric proceedings. Each of the orders relates to new, locational installed capacity ("LICAP") charges.

Since the restructuring of electricity in markets in several states in the late 1990s, ratepayers throughout New England and elsewhere have paid for "capacity," the mere availability of power plant resources, in addition to paying for the electricity they consume. Capacity payments have been considered necessary as a supplement to energy markets, because the energy markets have not provided sufficient revenue for all needed

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power plants to remain operative. Connecticut and other New England ratepayers have been paying installed capacity (“ICAP”) payments for several years. The costs of ICAP have been essentially spread equally among New England ratepayers based on usage.

Now, FERC is considering a proposal by the New England grid operator, ISO-New England (“ISO-NE”), to add a locational component to the capacity payments. This locational component would be structured so that geographical areas thought to have insufficient electric infrastructure (power plants, high voltage transmission lines, etc.) would pay more. The additional payments are intended to provide incentives for power plants and transmission lines to be located in areas needing more infrastructure.

One of the orders that FERC issued on November 8, 2004 is an interim order on how the LICAP markets will be structured throughout New England. OCC, along with the Connecticut Department of Public Utility Control (“DPUC”), the Connecticut Attorney General’s Office, and others, asked for rehearing of this order and expressed to FERC its serious concerns with the order, which concerns are next discussed. First, FERC is seeking to determine and influence the amount of power plant capacity in each of the New England regions needed to maintain reliability. This is arguably a usurpation of each state’s power to make determinations of resource adequacy. Second, FERC held to a January 1, 2006 implementation date for LICAP, despite the objections by OCC and other parties that such an early date would essentially function as a penalty, since it did not give a reasonable opportunity to respond to the LICAP price signals with new infrastructure. Third, FERC held that the LICAP mechanism will produce “just and reasonable rates” under federal law before it has considered the evidence arguments of OCC and other parties.

In addition to the above arguments, OCC and others pointed out to FERC some additional problems with the LICAP proposal, including: (i) the bizarre result that LICAP payments from Connecticut would actually increase, at least in the short term, if the currently proposed 345 kilovolt line between Middletown and Norwalk is completed, because of the way capacity transfer between regions is measured; and (ii) the lack of clarity as to whether old generating units that were already paid for by the ratepayers prior to restructuring will unfairly receive the same LICAP payments as newly-constructed units.

A second order issued by FERC on November 8, 2004 accepted ISO-NE’s proposal to split Connecticut into two wholesale capacity and energy zones, one in southwest Connecticut (“SWCT”), and one for the rest of Connecticut. OCC (again along with the DPUC, the Attorney General’s office, and others) objected, and asked for rehearing of this order on several grounds. In particular, there is insufficient support in



the evidentiary record for FERC's view that two Connecticut zones will provide incentives to construct and maintain electricity infrastructure in SWCT, or that two zones will benefit customers. Splitting Connecticut into two zones could well increase the overall amount that Connecticut ratepayers pay for electricity without adding reliability benefits. (Note: FERC is proposing to split Connecticut into two zones at the *wholesale level*. The Connecticut DPUC is the agency that decides how these costs will be charged in *retail rates* (i.e., whether SWCT's ratepayers will pay more). The DPUC has not opened a docket as to the issue of how higher wholesale prices for SWCT should be reflected in retail rates, and therefore OCC has not taken a position on this issue.

OCC has joined the DPUC, the Attorney General's Office and The Connecticut Light and Power Company in appealing the first of the two orders described above to the First Circuit Court of Appeals in Boston. The order splitting Connecticut into two zones is not yet ripe for appeal, as the initial rehearing request has not yet been ruled upon by FERC. Hearings on the general LICAP proposal (not the two zone proposal) began at FERC on February 23, 2005 and should continue for several more weeks, with a decision expected early in the summer.

OCC Settles on Rates with Yankee Gas

On December 8, 2004, the Department of Public Utility Control adopted a Settlement Agreement that was submitted by the Yankee Gas Services Company ("Yankee"), the Prosecutorial Division of the DPUC, and the OCC on October 14, 2004 in Yankee's rate case proceeding, Docket No. 04-06-01. Under the Settlement Agreement, the Settling Parties agreed to a rate increase effective January 1, 2005, of \$14.028 million or 4.1% relative to total costs, including gas costs and distribution related services, to produce rate year (2005) revenues of \$383,927,000 based on total sales of 49,702,075 Mcfs.

Since gas costs are a pass through with no related increase, the 4.1% total increase is based on a 9.4% increase to the distribution portion of rates. The Settling Parties also agreed to set the allowed ROE at 9.90%, down from the 11.0% approved in Yankee's last rate case in January of 2002. Base rates will be adjusted to reflect a fuel fold-in of \$39,155,703, exclusive of gross earnings tax, resulting in a total rate year gas cost of \$212,700,825. The purchased gas adjustment mechanism ("PGA") will be reset in recognition of the agreed adjustment to base rates.

Yankee's original rate application would have increased rates by \$26.5 million, or

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7.2% over revenues being produced by the Company's present rate structure in the test year (calendar year 2003). OCC supported the Settlement Agreement, as it significantly reduced the rate increase by approximately \$12.5 million from the Company's original request, and contained a stay out provision where Yankee agrees that it shall not file a new application for an increase to rates that would become effective prior to the earlier of the in-service date of the LNG plant, or July 1, 2007. The Settlement Agreement also contains an earnings-sharing mechanism that would share excess profits equally between ratepayers and shareholders, should the Company earn above the allowed return on equity of 9.90%.



New Litigation

Verizon Alternative Regulation Case:

The OCC has filed suit in state superior court to prosecute Verizon to prevent local service rate increases threatened by the “other” local exchange carrier in Connecticut, with a toehold of about 25,000 customers in Greenwich. The DPUC has allowed Verizon full freedom to raise its rates in spite of a vigorous defense by the OCC in months of negotiations with the company to prevent any rate increases for the next three years. The case is quite visible and important and the OCC is fearful that the DPUC may attempt to provide SBC Connecticut with the same favorable treatment sometime in 2005.

HAZARDVILLE WATER COMPANY RATE CASE

On September 15, 2004 the Hazardville Water Company (“HWC”) filed an application with the DPUC seeking a rate increase of \$623,786 or 23.16% over existing rates. This was later revised to a proposed rate increase to \$551,169 or approximately 20.475%. HWC serves approximately 7,100 customers in Enfield, Somers and East Windsor, and last received a rate increase in 1999. The average residential customer, now paying \$68.67 for quarterly usage of 2,200 cubic feet of water, would see quarterly bills increase to about \$82.75, if the revised rate increase was granted.

The OCC performed an audit of the Company’s accounting and financial records in November 2004. Public Hearings were held in Enfield and New Britain in December 2004 and January 2005.

On December 29, 2004, HWC and OCC reached a Settlement Agreement, regarding a limited reopening of this rate case associated with the recovery of costs that were associated with the construction of a one million gallon storage tank, and statutorily mandated Level A mapping projects which should be approved by the Department. These capital expenditures total approximately \$1.2 million, and are significant for a

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company the size of HWC. Under the Settlement, a limited reopener would occur by June 30, 2006.

On January 11, 2005, the OCC filed its Brief in the HWC rate case and recommended adjustments that would reduce the necessary rate increase by \$293,967, to \$257,202. OCC recommended reductions to payroll and benefit expenses, inflation, insurance expenses, outside services, depreciation, and rate of return. OCC also recommended the continued use of the net income method for calculating HWC's revenue requirements. These recommendations, if adopted by the DPUC, would reduce the overall rate increase to approximately 9.6%. On March 9, 2005, the DPUC approved a rate increase of \$401,673 or 14.91% above current levels. The final decision approved the Settlement Agreement HWC and OCC, and adopted many of the adjustments recommended in OCC's Initial Brief.

The Connecticut Office of Consumer Counsel is an independent state agency authorized by statute to act as the advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public service companies, electric suppliers and persons, and certified intrastate telecommunications service providers.

The Office of Consumer Counsel is authorized to appear in and participate in any regulatory or judicial proceedings, federal or state, in which such interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved.

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