



Superior Court Ruling Sought by OCC Favors Customers

On December 31, 2013, the Superior Court for the Judicial District of New Britain ruled in favor of the Office of Consumer Counsel (“OCC”) and its co-defendants in the matter of Kleen Energy Systems v. Department of Energy and Environmental Protection. This matter involves a contract between Kleen Energy Systems (“Kleen”), the owner of a power plant in Middletown, and The Connecticut Light and Power Company (“CL&P”). Under the financial contract, which was approved by the former Department of Public Utility Control (“DPUC”), Kleen is paid by CL&P, using ratepayer funds, for providing an electricity product called “capacity” to the New England electric system. The pricing terms in the contract are complex, and Kleen, during proceedings before DPUC and its successor, the Public Utilities Regulatory Authority (“PURA”), expressed disagreement with how certain payment terms were being interpreted. Kleen also argued to the Court that the pricing dispute should have been arbitrated rather than ruled on by PURA because of an arbitration clause in the contract. The Court, at the urging of co-defendants OCC, PURA, and CL&P, rejected Kleen’s arguments and upheld PURA’s rulings as to its jurisdiction and as to the substance of its decision on the interpretation of the contract.

OCC estimates that the Court’s ruling will save customers approximately \$5.5 million.

However, the decision may be appealed by Kleen, and there is still a pending court matter before Middletown Superior Court as to the arbitration issue.