

✓

The Energy and Technology Committee

March 3, 2008

Raised Bill No. 504 – An Act Concerning Natural Gas Customer Choice

Testimony of

Santa Buckley Energy

Timothy Costello, Vice President – Natural Gas Division

Introduction

Santa Buckley Energy appreciates the opportunity to speak in favor of the referenced raised bill before this committee. Santa has been a participant in the competitive energy business serving residential, commercial, industrial and wholesale customers for over 65 years, and is now headed by the third generation of the Santa family. Santa Energy Corporation is privately owned and all of its divisions are headquartered in our Bridgeport, CT office, employing approximately 150 individuals in Connecticut, and nearly 175 overall. Santa Energy expanded into the natural gas business in 2001.

My personal experience in the gas industry exceeds 25 years, all based in Connecticut. Nearly 20 of those years were with the Southern Connecticut Gas Company where I experienced first hand the utility's ventures into deregulation, helped start up its former deregulated natural gas marketing entity, and directed its transportation service programs with Marketers. I started the Natural Gas Division at Santa in 2001, and have been engaged in all of the major dockets and settlement agreements relating to natural gas deregulation in Connecticut.

My direct experience with customer choice from both the utility and marketer perspectives, along with Santa Energy's provision of a wide spectrum of energy products and services in most of the New England states gives us what we believe to be a unique perspective on customer energy choice. It is clear that customer energy choice is lacking in the State of Connecticut for two key reasons: (1) the Connecticut gas utilities actively oppose or make customer choice programs extremely difficult, and (2) the Connecticut DPUC has listened to, but either not heard or certainly not acted upon the evidence presented to show that to be the case.

Support for the Bill

In its general form, Santa Energy supports this bill as a tremendous step forward for natural gas customer choice in Connecticut, moving it closer to par with the workable electric customer choice programs recently established. Connecticut's current natural gas choice program allows only non-residential customers the opportunity to choose and this bill will expand that choice to residential customers. While that is a positive, it will require a much more assertive DPUC to insure that delays and impediments that have caused C&I customer choice to stagnate are removed to insure both a competitive and reliable supply. Currently, competitive energy supplier choice is available to residential oil, propane, wood, and electricity consumers. Natural gas consumers now stand alone without this option.

However, expanded natural gas customer choice must occur within a sustainable competitive market, or it is doomed to fail or stagnate. Santa Energy was previously of the opinion that residential natural gas supplier choice should be delayed until the transportation service problems encountered in Connecticut are resolved. The DPUC has unfortunately only tinkered with partial corrections, leaving a broken system virtually intact through Dockets 05-05-10 and 06-04-04. This comprehensive bill has many positive aspects that would fix the major concerns if followed by implementation by the DPUC. The most important and necessary changes included in this bill are:

- **Unfettered Access to Firm Transportation Capacity Rights** – Customers pay for and own the capacity, not the utilities, and therefore the capacity to serve should follow each customer to its chosen supplier. The DPUC in Docket 06-04-04 allowed only 25% capacity access, while requiring transportation customers to continue to pay for the remaining 75% as a “SOLR” requirement without receiving value for it. This decision was reached despite evidence presented that every surrounding state allows capacity to follow the customer and the lack of any evidence of negative consequences predicted by the utilities in these states. This steep SOLR cost is a barrier to customer choice and ends up being an increase in cost to the customer who chooses to transport with a supplier other than the gas utility.
- **Establish Non-Punitive, Market-Based, Actually Incurred Penalties** – On December 1st of 2007, Santa Buckley Energy incurred penalty charges that will amount to over **\$200.00 per dekatherm** for supply cuts that occurred with Southern CT Gas. This did not occur on a critical

day, so no harm or danger was posed to system reliability. **The market price for natural gas on that day was \$8.51 per dekatherm**, and it would be safe to assume that SCG did not incur actual monetary losses at all, never mind \$200.00 per dekatherm, a price that is nearly three times the highest midpoint price of daily gas ever reached, and closer to **ten times the highest midpoint price** of daily gas thus far through this winter. The Connecticut utilities argument accepted by the DPUC was that such outrageous penalties are necessary to insure that gas is delivered to Connecticut customers in times of stress on the system. The fact is that the single largest ultimate cut on that day for Santa Buckley Energy was by far with SCG, so the logic of the argument is not supported. Other utilities work with suppliers on days when there are problems on the pipelines to insure reliability, with the notable exception of the Energy East owned Connecticut utilities which seem to prefer inflicting penalties and punishment. In addition, all of the Connecticut utilities prevent third-party suppliers from delivering through the Iroquois pipeline to their citygate meters, further limiting supplier delivery options. In the end, the cost of this punitive arrangement is passed on to the natural gas choice consumers.

The ultimate irony is that choice customers are already paying for the utilities to hold 75% of their firm delivery capacity as a very expensive insurance policy. So, at the time that back-up may actually be needed, the customer's supplier must pay (1) a "failure to deliver" penalty, (2) a demand charge for "unplanned balancing" that is incurred for the next twelve months, and (3) for the gas itself, in addition to the worthless insurance policy. **The highest penalty in any of the other New England states for the same problem on that day was \$15.65 per dekatherm**. Similar evidence was presented in Docket 06-04-04 to the DPUC, but rejected in favor of the utility argument for extremely high penalties as the unsubstantiated way to ensure that gas would always come to Connecticut whenever there were disruptions.

- **Protect Choice Customers from Discriminatory Treatment** – At this time, whenever there is a mistake in the system of tracking customer enrollment, it is always the supplier and the choice customer who pays, regardless of the cause. Customers with any kind of account change or a minor problem with enrollment paperwork always default back to the utility for supply service, and a tremendous amount of time and energy must be spent to try to remedy the problem, even

when the utility is being cooperative. The process is very confusing and open to interpretation, with the final determination made in each case by the utility.

Dual fuel, interruptible rate customers provide the most serious examples of discriminatory abuse. The utilities, with the DPUC's support, created an agency agreement for this customer class that requires notarization by both customer and the supplier over the objections of Santa Buckley Energy. The objections were raised because signed documents were already being provided, but the requirement for the notarization was an unnecessary barrier to smaller customers who didn't have easy access to a notary public. In the current rate cases for the Energy East utilities (Docket #05-03-17PH02), they are proposing a new annual certification document that will not require a notarized signature because, in their own words, "It is the Company's experience that requiring a notarized signature is difficult for many customers, time consuming, and delays the return of the information packet." The gas utilities seek to make paperwork easier when it involves their direct involvement with the customer, but more difficult for customers and suppliers who are trying to exercise their choice options.

Even worse than this is how the utilities have abused interruptible rate customers with open-ended monopoly distribution rates. This was also a topic of 06-04-04 where the DPUC accepted and re-affirmed the utility practice of charging completely unfettered "value of service rates." The idea is that no matter how much lower the actual cost of natural gas may be compared to an alternate fuel option, the customer can still expect to cede that difference to the utility through the distribution rate. This December through March, **the Energy East utilities have charged distribution rates between \$7.25 and \$9.00 per Mcf** (approximately the same as a dekatherm) when the contract price for the gas commodity itself was settling at lower prices than that (\$7.203/Dth for December, \$7.172/Dth for January, \$7.996/Dth for February). These distribution rates are **200-400% higher than ever previously charged**, and nearly the same percentage range higher than firm distribution rates that have a much higher quality of service. The result is that interruptible rate customers who have invested in equipment to allow them to save on energy costs and provide a valuable peak-shaving service to the utilities, have been robbed by those utilities of the benefit because of an abusive monopoly rate service.

Our Attorney General has rightly complained of abusive monopoly tactics he believes are being used by Connecticut Natural Gas' unregulated affiliate against State buildings served by the Hartford steam loop. We need similar attention paid to what has been happening to choice customers on interruptible gas service, and protection of non-discriminatory treatment in this bill will be helpful.

- **Proper Assignment of Unbundled Costs** – The gas utilities should ideally provide commodity sales service through a functionally separated entity to ensure that there is no cross-subsidy advantage from the distribution side of the business. The most obvious cross-subsidy that is known at this time and has been allowed to remain is the uncollectible expense related to the failure of the utility to collect commodity related costs from their own sales service customers. As with many other typical business expenses that are shared within the utility, this means that choice customers must pay such expenses both to their own supplier and the utility. This is not fair.

When utilities over-earn and agreements are required to flow the over-earnings back to customers, these are often returned through the commodity adjustment factor (PGA) so that transportation service customers do not get their fair share returned to them and utility commodity rates are artificially lowered against the market. Since earnings are part of the revenue-requirement collected through the distribution portion of the rate that is paid by all customers, it should be returned proportionately to all customers.

Recommended Changes to the Bill

Section 5(b) requires that the gas utilities do consolidated billing for one bill to come from the utility, inclusive of supplier charges. Santa Energy would respectfully recommend a change to this portion of the bill to enforce the current three billing options that are supposed to be available: (1) two-bill separate billing of supplier and utility charges, (2) single consolidated bill from the supplier, or (3) single consolidated bill from the utility. Only (1) and (2) are currently available to choice customers. While we would like to see the (3) option fulfilled by the utilities, we would prefer that it remain as a choice. Many suppliers have unique billing options and types of rates that differentiate them from other suppliers, and we don't want that lost in a bill promoting choice. Adding (3) to the options along with the purchase of receivables by the utilities will clearly make smaller customers more attractive to potential suppliers.

Section 3(b) provides that capacity releases occur on a daily basis and that balancing be put with the third-party suppliers. Capacity transfers should happen on a monthly basis, or when customers are switched into a supplier's pool. Balancing is most efficiently and reliably handled by a single operator providing the SOLR or default service and monitoring the distribution system. At this time, that is the utility. The balancing function has remained with the utilities thus far in the states surrounding Connecticut that have allowed access to the full transportation assets required to serve the customer.

Summary

Santa Energy supports this bill's attempt to expand customer choice to residential customers, give natural gas choice the imprimatur of the State Legislature, and to give direction to the DPUC on the following critical points:

1. Full access should be granted to the firm transportation capacity rights owned by the customers, to be used by the customer's chosen supplier to service the customer's natural gas requirement.
2. Prohibit punitive penalty structures that inhibit competition in the state and increase costs for natural gas choice customers. Make penalties market-based and charge only when costs are actually incurred by the gas utility or customers who have not elected to choose a third-party supplier. Charges that amount to over \$200.00 per dekatherm clearly meet the definition of unreasonable and punitive in a \$8.51 per dekatherm gas market when no penalties have been incurred by the utility.
3. Eliminate discriminatory practices that are either barriers to entry for customers to elect third-party suppliers, or that allow for unjust and unreasonable rates to any class of customers. Dual fuel customers electing transportation service are exposed to a monopoly manipulation of rates that result in extreme and unlimited gas service costs.
4. Eliminate cross-subsidy of the gas utilities' commodity sales service from its monopoly distribution service, including the commodity portion of bad debt and the typical share of costs beyond the pure cost of the commodity that are incurred by any retail business.

There are also changes that we would respectfully suggest to make this a better bill. These include:

1. Changes to Section 5(b) that would make utility consolidated billing an additional option would be better than mandating it as the sole means of billing. This would require the utilities to provide a service that they should have been providing for many years, yet would preserve flexible billing methods offered by third-party suppliers that may be customized to a customer's needs. Add "Upon request by a natural gas seller and its choice customer, ..." to the beginning of the paragraph.
2. Changes to Section 3(b) should allow for the system operator responsible for distribution reliability to maintain some assets for providing the balancing function. Recommended changes would be to strike "on a daily basis" from the first line, and "and balancing assets" from line three.
3. Implementation dates need to be pushed back from the referenced October 1, 2007.

Santa Energy has been a longstanding Connecticut corporation by choice, not bound by a franchise service area. We believe that vibrant competitive energy markets are one of the ways to help Connecticut have the healthy economic climate that will help all residents and businesses in the state. We urge that you consider passing Raised Bill No. 504 out of committee with the few modifications noted.

Thank you once again for your time and consideration of our comments on this bill.