



Substitute House Bill No. 6306

Public Act No. 09-218

AN ACT ESTABLISHING A CODE OF CONDUCT FOR THE TRANSACTIONS BETWEEN NATURAL GAS DISTRIBUTION COMPANIES AND THEIR AFFILIATES, PREVENTING PROPANE TERMINATIONS FOR CERTAIN CUSTOMERS AND CONCERNING THE STATE'S ENERGY ASSESSMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 16-47 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section [.] and section 2 of this act, (1) "holding company" means any corporation, association, partnership, trust or similar organization, or person which, either alone or in conjunction and pursuant to an arrangement or understanding with one or more other corporations, associations, partnerships, trusts or similar organizations, or persons, directly or indirectly, controls a gas, electric, electric distribution, water, telephone or community antenna television company, [. As used in this section,] and (2) "control" means the possession of the power to direct or cause the direction of the management and policies of a gas, electric, electric distribution, water, telephone or community antenna television company or a holding company, whether through the ownership of its voting securities, the ability to effect a change in the composition of its board of directors or

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otherwise, provided, control shall not be deemed to arise solely from a revocable proxy or consent given to a person in response to a public proxy or consent solicitation made pursuant to and in accordance with the applicable rules and regulations of the Securities Exchange Act of 1934 unless a participant in said solicitation has announced an intention to effect a merger or consolidation with, reorganization, or other business combination or extraordinary transaction involving the gas, electric, electric distribution, water, telephone or community antenna television company or the holding company. Control shall be presumed to exist if a person directly or indirectly owns ten per cent or more of the voting securities of a gas, electric, electric distribution, water, telephone or community antenna television company or a holding company, provided the department may determine, after conducting a hearing, that said presumption of control has been rebutted by a showing that such ownership does not in fact confer control.

Sec. 2. (NEW) (*Effective from passage*) (a) As used in this section, "affiliate" means a person, as defined in section 16-1 of the general statutes, or class of persons that, with a gas company, as defined in said section 16-1, is under the control of the same holding company, or a person or class of persons that the Department of Public Utility Control may, after notice and hearing, find has such a relation to a gas company conducting business and financial transactions that involve cross-subsidization or preferential treatment between the company and such person or class of persons as to make it necessary to protect ratepayers.

(b) The Department of Public Utility Control shall establish a code of conduct that sets minimum standards for gas company transactions with affiliates to achieve, at a minimum, the following goals, provided such code shall not interfere with interactions with regulated affiliates that are consistent with appropriate and efficient business practice or

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the public interest:

(1) Provide rules for when the purchases or sales of goods or services between a gas company and an affiliate should be by written contract based on such factors as the nature, value and term of the purchase or sale;

(2) Provide rules with respect to sharing or giving access to certain types of customer identifying or commercially sensitive information to affiliates that may differ between regulated and unregulated affiliates;

(3) Provide for a system of records and reporting for transactions between a gas company and its affiliates;

(4) Establish standards to ensure that any payment by a gas company to any affiliate or from any affiliate to a gas company is appropriate and reasonable;

(5) Provide a standard for avoidance of conflict of interest between a gas company and affiliates;

(6) Ensure that any such transactions shall not have an improper and adverse impact on the costs or revenues of the gas company, on the rates and charges paid by gas company customers or on the quality of service provided by the gas company;

(7) Ensure that gas company ratepayers do not subsidize affiliate operations;

(8) Ensure fair, appropriate and equitable standards for purchases, sales, leases, asset transfers and cost or profit-sharing transactions or any type of financing or encumbrance involving a gas company and its affiliates; and

(9) Ensure that gas supply and distribution services are provided by a gas company in an appropriate manner to affiliates and nonaffiliates

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alike.

(c) In addition to the powers granted to the department in section 16-8c of the general statutes, during a rate proceeding under 16-19 of the general statutes, the department may summon witnesses from an affiliate with which a gas company has had direct or indirect transactions, examine the affiliate under oath and order production, inspect and audit the books, records or other information relevant to any transaction that the department has reason to believe has or will have an adverse impact on the costs and revenues of the affiliated gas company. Proprietary commercial and proprietary financial information of an affiliate provided pursuant to this section shall be confidential and protected by the department as the department deems appropriate, subject to the provisions of section 1-210 of the general statutes.

(d) Each gas company shall submit to the department records and such information as the department may require, at intervals determined by the department and in such form as the department may order regarding affiliate transactions.

(e) The department may, upon its own motion, investigate a gas company's compliance with the code of conduct, and any such investigation shall be a contested case, as defined in section 4-166 of the general statutes.

(f) The department may make orders to enforce the code of conduct, including, but not limited to, cease and desist orders and may levy civil penalties pursuant to section 16-41 of the general statutes against entities subject to the code of conduct.

(g) The code of conduct shall not prohibit communications necessary to restore gas company service or to prevent or respond to emergency conditions.

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(h) On or before November 1, 2010, the department shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to establish the code of conduct in accordance with subsection (b) of this section, related accounting and reporting requirements and procedures for gas company and affiliate compliance with this section.

(i) Any methodology for the allocation of costs between a gas company and other companies under the control of the same holding company currently approved by, or under current orders issued by, the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or the Federal Energy Regulatory Commission under the Public Utility Holding Company Act of 2005, shall be entitled to a rebuttable presumption of reasonableness. Charges rendered to a gas company by an affiliate that is a traditional centralized service company shall be at cost and entitled to a rebuttable presumption of reasonableness.

Sec. 3. (NEW) (*Effective from passage*) (a) No propane supplier shall terminate service for nonpayment to any eligible residential propane customer living at a location served by ten or more vapor meters for central heating purposes (1) on a Friday, Saturday, Sunday, legal holiday, the day before a legal holiday, or less than one hour before such propane supplier's offices close for the day, (2) without fourteen days' written notice of such pending termination, including the date of termination and steps a customer can take to reinstate service, to the resident customer and the owner of record, and (3) for customers who provide documentation that they have applied for energy assistance, between November first and May first. A propane supplier may collect finance charges on past due balances not to exceed one and one-half per cent per month. If a propane supplier determines that a dangerous condition exists, such propane supplier may terminate any service at any time without notice.

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(b) As used in this section, (1) "eligible residential propane customer" means a residential propane customer (A) who receives local, state or federal public assistance, (B) whose sole source of financial support is Social Security, Veterans' Administration or unemployment compensation benefits, (C) who is head of the household and is unemployed, and the household income is less than three hundred per cent of the poverty level determined by the federal government, (D) who is seriously ill or who has a household member who is seriously ill, (E) whose income falls below two hundred per cent of the poverty level determined by the federal government, or (F) whose circumstances threaten a deprivation of food and the necessities of life for himself or dependent children if payment of a delinquent bill is required; and (2) "household income" means the combined income over a twelve-month period of the customer and all adults, except children of the customer, who are and have been members of the household for six months, or more.

Sec. 4. Section 16a-3a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The electric distribution companies, in consultation with the Connecticut Energy Advisory Board, established pursuant to section 16a-3, shall review the state's energy and capacity resource assessment and develop a comprehensive plan for the procurement of energy resources, including, but not limited to, conventional and renewable generating facilities, energy efficiency, load management, demand response, combined heat and power facilities, distributed generation and other emerging energy technologies to meet the projected requirements of their customers in a manner that minimizes the cost of such resources to customers over time and maximizes consumer benefits consistent with the state's environmental goals and standards.

(b) On or before January 1, 2008, and [annually] biennially thereafter, the companies shall submit to the Connecticut Energy

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Advisory Board an assessment of (1) the energy and capacity requirements of customers for the next three, five and ten years, (2) the manner of how best to eliminate growth in electric demand, (3) how best to level electric demand in the state by reducing peak demand and shifting demand to off-peak periods, (4) the impact of current and projected environmental standards, including, but not limited to, those related to greenhouse gas emissions and the federal Clean Air Act goals and how different resources could help achieve those standards and goals, (5) energy security and economic risks associated with potential energy resources, and (6) the estimated lifetime cost and availability of potential energy resources.

(c) Resource needs shall first be met through all available energy efficiency and demand reduction resources that are cost-effective, reliable and feasible. The projected customer cost impact of any demand-side resources considered pursuant to this subsection shall be reviewed on an equitable bases with nondemand-side resources. The procurement plan shall specify (1) the total amount of energy and capacity resources needed to meet the requirements of all customers, (2) the extent to which demand-side measures, including efficiency, conservation, demand response and load management can cost-effectively meet these needs, (3) needs for generating capacity and transmission and distribution improvements, (4) how the development of such resources will reduce and stabilize the costs of electricity to consumers, and (5) the manner in which each of the proposed resources should be procured, including the optimal contract periods for various resources.

(d) The procurement plan shall consider: (1) Approaches to maximizing the impact of demand-side measures; (2) the extent to which generation needs can be met by renewable and combined heat and power facilities; (3) the optimization of the use of generation sites and generation portfolio existing within the state; (4) fuel types,

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diversity, availability, firmness of supply and security and environmental impacts thereof, including impacts on meeting the state's greenhouse gas emission goals; (5) reliability, peak load and energy forecasts, system contingencies and existing resource availabilities; (6) import limitations and the appropriate reliance on such imports; and (7) the impact of the procurement plan on the costs of electric customers.

(e) The board, in consultation with the regional independent system operator, shall review and approve or review, modify and approve the proposed procurement plan as submitted not later than one hundred twenty days after receipt. For calendar years 2009 and thereafter, the board shall conduct such review not later than sixty days after receipt. For the purpose of reviewing the plan, the Commissioners of Transportation and Agriculture and the chairperson of the Public Utilities Control Authority, or their respective designees, shall not participate as members of the board. The electric distribution companies shall provide any additional information requested by the board that is relevant to the consideration of the procurement plan. In the course of conducting such review, the board shall conduct a public hearing, may retain the services of a third-party entity with experience in the area of energy procurement and may consult with the regional independent system operator. The board shall submit the reviewed procurement plan, together with a statement of any unresolved issues, to the Department of Public Utility Control. The department shall consider the procurement plan in an uncontested proceeding and shall conduct a hearing and provide an opportunity for interested parties to submit comments regarding the procurement plan. Not later than one hundred twenty days after submission of the procurement plan, the department shall approve, or modify and approve, the procurement plan. [For calendar years 2009 and thereafter, the department shall approve, or modify and approve, said procurement plan not later than sixty days after submission.]

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(f) On or before September 30, 2009, and every two years thereafter, the Department of Public Utility Control shall report to the joint standing committees of the General Assembly having cognizance of matters relating to energy and the environment regarding goals established and progress toward implementation of the procurement plan established pursuant to this section, as well as any recommendations for the process.

(g) All electric distribution companies' costs associated with the development of the resource assessment and the development of the procurement plan shall be recoverable through the systems benefits charge.

Approved July 8, 2009