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TESTIMONY OF RICHARD A. SODERMAN
THE CONNECTICUT LIGHT AND POWER COMPANY
and YANKEE GAS SERVICES COMPANY
Energy and Technology Committee—March 8, 2011

R.B. No. 1141 AN ACT CONCERNING NET METERING.

My name is Richard Soderman and I serve as Director of Legislative Policy for Northeast Utilities Service Company. I am appearing on behalf of The Connecticut Light and Power Company and Yankee Gas Services Company.

We support the rational and economic deployment of renewables to meet the state and federal goals for clean energy, but we do not think that virtual net metering is neither rational nor effective. What is virtual net metering? It is simply a way to artificially create additional, non-transparent subsidies for certain renewable generation installations that are paid for by other customers. As proposed, virtual net metering would allow customers who own Class I renewable energy sources and who generate more energy than they use to assign their unused energy to other customers without paying any delivery costs, virtually a make-believe notion that there are not wires and equipment in between.

This bill proposes to implement another costly, customer-subsidized incentive on top of other, substantial incentives, for certain renewable projects for individual customers in the form of net metering. This is bad policy and an attempt to improve the profitability for a select group of individual customers (or their project developers) of poorly conceived and uneconomic projects on the backs of other customers. This proposal would be unfair to the vast majority of customers because they would pay higher rates. It would also require electric distribution companies to install special equipment for these special customers who would not even pay for that new equipment—instead, they would be paid for by other customers. There are several reasons why this proposal is bad for Connecticut electric consumers.

First, Connecticut has already explicitly determined the incentives for development of Class I renewables. We do not believe that it is appropriate to add through the back door additional,



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non-transparent subsidies that must be paid for by all other customers. If the state wants to give greater incentives, then it should do so directly and transparently, and not hide them behind the intricacies of rate design. Doing so can lead to uneconomic decision-making and contribute to the reasons why Connecticut has among the highest rates in the nation.

Second, the proposed net metering bill is bad policy because it seeks to disrupt basic fundamental principles of utility regulation, cost causation and the definition of a customer. While seeming to be simply just another incentive for renewable generation, at its heart, this proposal would shift cost responsibility from a select group of customers to other customers, many of whom do not have options to participate in the subsidized renewable program. Thus, elderly, limited income, and perhaps all residential customers would be required to pay more so that a few can receive even greater subsidies for their own projects. Taken to the extreme, the redefinition of customers and cost causation inherent in this proposal could ultimately have a few consumers without options eventually paying for the entire cost of the electric delivery system. Let me discuss these two reasons for opposing this bill in greater detail.

Existing Renewable Incentives

Connecticut has an assortment of clean energy incentives that have been implemented over many years. They include renewable portfolio standards, Project 150, Regional Greenhouse Gas Initiative, projects funded by the Connecticut Clean Energy Fund, tax benefits and DEP emissions standards. In addition, there are several more hidden incentives, such as certain net metering applications for individual customers (where a customer is paid for excess generation), and waiver of gas delivery charges for certain renewable distributed generation applications.

- Today, we estimate that resource portfolio standards, which require that all generation service providers include about 14% of the energy provided to be renewable this year, costs about \$80-90 million per year (0.3 cents/kwh), or \$2.10 per month for a typical residential customer. This amount will grow as the renewable requirement increases to 27% in 2020.



- Customers pay about \$30 million (0.1 cent/kwh) for funding the Connecticut Clean Energy Fund (\$.70 per month). Since its inception, consumers have funded nearly \$300 million for these programs.
- Project 150 has not produced any energy yet, but the contracts that have been awarded are estimated to cost electric consumers between \$100-600 million in above market payments over the terms of the contracts. While some contracts are relatively attractive, others are more costly.
- The list of Connecticut incentives already in place include: CCEF - Operational Demonstration Program, New Energy Technology Program, Leasing Program, CT Solar Lease, Local Loan Program, New Generation Energy - Community Solar Lending Program, Property Tax Incentive, Property Tax Exemption for Renewable Energy Systems, Sales Tax Incentive, CCEF - On-Site Renewable DG Program, and State Loan Program.

These programs have been determined by the enabling legislation to provide appropriate levels of incentives for renewable technologies and were designed to encourage development. The proposed bill attempts to add to these incentives, without any quantification of costs. To give a sense of the potential magnitude of the subsidy and cost shift to other customers, an example may be helpful. If 10% of customers were able to avail themselves of this beneficial rate treatment, the remaining 90% of customers could see a \$150 million rate increase (5-6%, or \$5.40 more per typical residential monthly bill) related to fixed costs incurred by the preferentially-treated customers but shifted to others.

Fundamental Principle of Cost Causation and Definition of a Customer

Electric distribution companies have distribution infrastructure (poles, wires, transformers, substations, etc.) that is constructed and maintained to serve the demands of our customers. In this regard, each customer on our system has a responsibility to contribute their fair share toward the cost of these facilities, and they do that through the rates that we charge, as approved by the DPUC.



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Under traditional net metering, these same facilities remain in place to provide service to customers whenever their generation does not meet their load. Thus, the costs also remain.

Net metering allows customers to avoid paying for the cost of the facilities dedicated and standing ready to serve them by enabling the generation to reduce the billable kWh and KW usage, and thus reduce the bill for the customer.

The costs don't go away when someone decides to self generate - so who pays for the costs that the net metered customer avoided? It falls on all other ratepayers/customers through higher rates. The higher rates come from having the same facilities with the same costs, but fewer billable kWh sales to recover the costs.

This "virtual" net metering bill potentially extends significantly the unfair cost avoidance to not only the participating net metered customer, but also to five of their friends ("beneficial accounts"). Imagine you are a large discount, box-store "Customer Host" who has a generator in Cromwell. You produce electricity that offsets your bill via net metering. Now you want to use that same generator located in Cromwell to offset the utility bills for five customers in potentially completely different areas of the state. Let's say one of those customers was in Torrington. From a physical flow perspective, what happens in Cromwell has nothing to do with Torrington. The customer in Torrington still uses CL&P's system to take power. The other four customers, wherever they may be, also use CL&P's system to deliver their power requirements. Nothing has changed in terms of how the electrical requirements of these five "beneficial accounts" are served. The same facilities are used and the same costs are incurred by CL&P. Under this proposed bill, not only would the single Customer Host reduce its bills via net metering, but now so would his five friends (or corporate affiliates). The result is that CL&P would see no reduction in its cost of providing service, but realize less revenue as the virtual net metering allows a total of six customers to escape payment. In the short term, it is CL&P shareholders that will pay the bills of the six participating customers. More importantly, in the longer term it is all other CL&P customers that will pay the bills of these six., and the next six,



and the next six, And ultimately, because these are uneconomic projects to begin with, the costs of electricity for everyone will be higher than it needs to be, and Connecticut will become even more uncompetitive with its neighboring states.

The effect of this action is that it could ultimately lead to a frustration and destruction of the means by which the DPUC designs and approves rates. In effect, the proposed bill would effectively allow six customers to become one and avoid their fair share of cost responsibility. I can imagine a scenario that builds upon this approach, for example, the owner of 50 large retail stores installs renewable generators at several locations within the state, and seeks to virtually net meter all of these accounts.

In the end, this virtual net metering provision does not change the infrastructure requirements and costs for electric distribution companies. In fact, as drafted, the bill calls for added metering equipment at such locations. Administratively, there is an added cost of getting the right metering in place to capture the information, developing and implementing processes for calculating and allocating credits, and applying those to bills. These provisions will cost all nonparticipating customers money, and potentially significant amounts of money as net metering rules continue to be expanded to more and more customers.

Federal Jurisdiction

This proposal is also problematic because it would, in the following instances, regulate subject matter that, under federal law, falls within the exclusive jurisdiction of the Federal Energy Regulatory Commission ("FERC"). When meter aggregation triggers FERC's jurisdiction then the Department of Public Utility Control ("DPUC") could not dictate the rates, terms, and conditions of such meter aggregation.

- FERC recognizes that a "sale" over which it has jurisdiction occurs when surplus electricity generation by a customer at its delivery point is netted against load at the same delivery point. (See MidAmerican Energy Co., 94 FERC ¶ 61,340 (2001)). By extension, net



metering on an aggregated basis would therefore also involve a sale under these circumstances. Meter aggregation, however, goes one step further because the customer is requesting that the excess power at one location be treated as though it is moved across the distribution and transmission systems to another location. This movement of power would be considered retail wheeling.

- Even assuming such a “sale” regulated by FERC does not occur from net metering, FERC preemption would still apply, in certain instances, to “retail wheeling” from the aggregation of the consumption from multiple meters. This is because there is an unbundled transportation component involved in allowing a customer to net consumption at a different location than at the customer’s behind the net meter generator. If that delivery involves the use of unbundled retail transmission facilities then FERC jurisdiction attaches, but if only local distribution facilities are used then FERC’s jurisdiction would not attach. The only way to determine whether transmission or local distribution facilities are used would be on a case-by-case basis in which (i) the DPUC would have to identify all of CL&P’s facilities that would be used to accomplish a particular retail wheeling transaction and (ii) then apply FERC’s 7-part test to determine whether those facilities constitute unbundled retail transmission or local distribution facilities.
- Finally, FERC’s decision in *MidAmerican Energy Co.*, 94 FERC ¶ 61,340 (2001) suggests that if an end-use customer participating in a net metering program produces more energy than it needs over the applicable billing period, it will have made a net sale of energy to CL&P over the applicable billing period which is subject to FERC’s jurisdiction.

Conclusion

This proposed bill will have a substantial impact on other customers. Further, there is no cap on the level to which the application of this program could reach, suggesting that the cost shift could be very large as more groups of customers took advantage of it. If this bill moves forward, then we suggest that a fiscal note be included that determines the likely impact on electric bills of government facilities. We strongly oppose this bill.