Advisory
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2009 Energy and Utility Act Summary

In 2009, the Connecticut General Assembly enacted a variety of measures affecting the utility industry and energy sector. The session included amendments to utility service termination and meter access requirements, provisions for a code of conduct for transactions between natural gas distribution companies and their affiliates, and changes affecting water system construction, expansion and supply plans, among other technical amendments. The following is a summary of the 2009 Connecticut Public Acts we believe are likely to be of interest to those involved with public utilities, energy and other regulated industries.

Public Acts

An Act Concerning Deficiency Appropriations for the Fiscal Year Ending June 30, 2009, Funding for Employment and Training Initiatives and Cancellation of Debt Income

PUBLIC ACT NO. 09-2
(June 19 Special Session)

Section 3 of this Act, effective July 1, 2009, requires that the unexpended balance of funds appropriated in fiscal year 2008 to the Office of Policy and Management ("OPM") for the purpose of expanding Operation Fuel, Incorporated, will not lapse and will continue to be available for this purpose during fiscal year 2010.

Sections 1, 2 and 4–6 contain provisions outside of the scope of this summary.

An Act Concerning Certain State Programs and The American Recovery and Reinvestment Act of 2009

PUBLIC ACT NO. 09-3

Section 1 of this Act, effective from passage, requires OPM, in connection with its submission of a detailed comprehensive application to the United States Secretary of Energy for State Energy Program grant funds under the American Recovery and Reinvestment Act of 2009, to first submit the application to the Appropriations Committee and the Energy and Technology Committee of the General Assembly. The committees must hold a hearing on the application within seven days, and OPM must present testimony on the details of the application.

Sections 2–4 contain provisions outside of the scope of this summary.

An Act Concerning Mutual Aid or Mobile Support Units and Nuclear Safety Emergency Preparedness Program Plans

PUBLIC ACT NO. 09-27

Section 2 of this Act, effective October 1, 2009, amends CGS §28-31 with respect to the dates for filing and approval of the state's nuclear safety emergency preparedness program. This section requires the Commissioner of Emergency Management and Homeland Security to submit the plan to the Secretary of OPM annually no later than May 1st (amended

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from November 1st) for the next fiscal year. If the plan conforms to the statutory guidelines for the nuclear safety emergency preparedness program, the Secretary of OPM must then approve the plan no later than June 1st (amended from December 1st).

Section 1 contains provisions outside of the scope of this summary.

An Act Concerning Notification of Contaminants in Drinking Water

PUBLIC ACT NO. 09-30

Section 1 of this Act, effective from passage, requires that no later than five business days after receiving notice that a public water system is in violation of the U.S. Environmental Protection Agency national primary drinking water standards, the Commissioner of Public Health shall give written or electronic notice of the violation to the chief elected official of the municipality where the public water system is located and any municipality that is served by the public water system.

An Act Concerning Utility Service Termination

PUBLIC ACT NO. 09-31

Section 1 of this Act, effective July 1, 2009, provides that any person requesting the termination of electric, gas, telecommunications or water service to a residential dwelling must provide to the electric distribution company, gas, telecommunications or water company, electric supplier or municipal utility identification sufficient to establish that the person requesting the termination is the customer of record or the customer's authorized representative. The company, supplier or utility may not terminate service if the person does not provide reasonable identification. If a person other than a customer of record or the customer's authorized representative seeks to terminate service to a residential dwelling, the service provider may not terminate service unless it first sends a notification letter to the customer of record at the customer's last-known address at least nine days prior to the requested termination date. These requirements do not apply in cases where the company, supplier or utility proceeds to terminate service upon request of state or local fire or police authority, upon its own determination that failure to terminate service may adversely impact safety or public health, or in compliance with applicable statutes or Department of Public Utility Control ("DPUC") regulations governing involuntary termination of service.

Section 2, effective July 1, 2009, amends CGS §16-262e to require the owner, agent, lessor or manager of a residential dwelling to provide a public service company, electric supplier, municipal utility or heating fuel dealer access to its utility meter or other facilities located on the premises. Access must be provided promptly upon written request of the service provider. If access is not provided, the owner, agent, lessor or manager is liable for the costs incurred by the service provider to gain access to the meter and facilities, including costs of collection and attorneys fees. If the failure to provide access causes a delay in terminating service to an individually metered or billed portion of the residential dwelling, the owner, agent, lessor or manager is also liable for the amounts billed for utility service for the period beginning ten days after access has been requested and ending when access is provided.

An Acy Establishing a Bi-State Long Island Sound Commission

PUBLIC ACT NO. 09-151

Section 1 of this Act, effective July 1, 2009, makes findings with respect to Long Island Sound and establishes a Bi-State Long Island Sound Commission. The Commission will include the Governors of Connecticut and New York, or their designees, seven residents of Connecticut (to be appointed as provided in this section), and seven residents of New York. The Commission will "(1) review and consider major environmental, ecological and energy issues involving Long Island Sound and the lower Hudson River Valley, provided the commission's review and consideration of issues involving the valley shall be limited to issues in the valley that affect Long Island Sound, (2) seek consensus on strategies and policies concerning such issues, and (3) make recommendations for administrative and legislative action to implement such strategies and policies." The Commission will meet by October 1, 2009, and not less than quarterly thereafter. This section further provides that these provisions will take effect upon enactment of similar legislation in New York.

Sections 2 and 3, effective as of July 1, 2009 (as to Section 2) and as of the date of enactment of similar New York legislation (as to Section 3), amend CGS §25-140 to narrow the responsibilities of the Bi-State Long Island Sound Marine Resources Committee with respect to major environmental, ecological or energy issues that are under review by the Commission pursuant to section 1 of this Act.

NOTE: Public Act No. 09-151 was vetoed by the Governor on July 2, 2009. The veto was subsequently overridden by the General Assembly.

An Act Concerning Green Building Standards and Energy Efficiency Requirements for Commercial and Residential Buildings

PUBLIC ACT NO. 09-192

Section 1 of this Act, effective from passage, amends CGS §29-256a with respect to revisions to the State Building Code by the State Building Inspector and the Codes and Standards Committee to incorporate green building standards. This section delays implementation of revisions to July 1, 2010, and authorizes the State Building Inspector and the Codes and Standards Committee to determine minimum building size requirements to which the standards will be applicable (amended from new construction costing not less than $5 million and renovations costing not less than $2 million). The provisions will address "optimum cost-effective" construction standards concerning the "thermal envelope or mechanical systems, including but not limited to, indoor air quality and water conservation, and the lighting and electrical systems of the building." The provisions will reference nationally accepted green building rating systems, such as Leadership in Energy and Environmental Design rating system, the Green Globes USA design program, the National Green Building Standard, or an equivalent rating system.

Section 2, effective from passage, amends CGS §29-251 to increase the membership of the Codes and Standards Committee, which is within the Department of Public Safety, from 17 to 18 persons, requiring the additional member to have expertise in energy efficiency.

An Act Establishing a Code of Conduct for the Transactions Between Natural Gas Distribution Companies and their Affiliaties, Preventing Propane Terminations for Certain Customers and Concerning the State's Energy Assessment

PUBLIC ACT NO. 09-218

Section 1 of this Act, effective from passage, amends CGS §16-47 to apply the definitions of "holding company" and "control" to section 2 of the Act.

Section 2, effective from passage, requires the DPUC to establish by November 1, 2010 a code of conduct to regulate gas company transactions with affiliates. For purposes of the Act, an "affiliate" is an entity that, along with a gas company, is under the control of the same holding company or person and that the DPUC may determine has a relation to the gas company in business and financial transactions as to make it necessary to protect ratepayer interests. The code of conduct will set minimum standards for gas company transactions with affiliates to achieve enumerated goals, including rules as to written contracts; sharing of customer or commercially sensitive information; records and reporting; payments; conflicts of interest; impacts on gas company costs and revenues, rates and service quality; cross-subsidies; purchases, sales, leases, asset transfers and other transactions and financings; and nondiscriminatory gas supply and distribution services. The code must not

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interfere with interactions with regulated affiliates that are consistent with appropriate and efficient business practice or the public interest. This section also empowers the DPUC in a rate proceeding to summon witnesses from an affiliate with which a gas company has had direct or indirect transactions, examine the affiliate under oath and order production, and inspect and audit the books, records or other information relevant to any transaction that the DPUC has reason to believe will have an adverse impact on the costs and revenues of the affiliated gas company. The DPUC may require gas companies to submit records and other information, and may investigate compliance with the code of conduct on its own motion.

Section 3, effective from passage, prohibits a propane supplier from terminating service for nonpayment (under certain conditions) to any "eligible residential propane customer" (as defined in this section) living at a location served by ten or more vapor meters for central heating purposes. Service cannot be terminated (a) on a Friday, Saturday, Sunday, legal holiday, the day before a legal holiday, or less than one hour before the propane supplier's office closes for the day; (b) without fourteen days' written notice of the 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 (c) for customers who provide documentation that they have applied for energy assistance, between November 1st and May 1st. A propane supplier may terminate service at any time without notice if it determines that a dangerous situation exists. A propane supplier may collect finance charges on past due balances not to exceed one and one-half percent per month.

Section 4, effective from passage, amends CGS §16a-3a to require the electric distribution companies to submit their energy and capacity assessment and resource plan to the Connecticut Energy Advisory Board on a biennial basis (amended from annual submittal).

An Act Concerning Environmental Health

PUBLIC ACT NO. 09-220

Section 1 of this Act, effective October 1, 2009, amends CGS §16-262m with respect to application requirements for certificates of public convenience and necessity for the construction or expansion of certain water systems. This section specifies that upon determining an exclusive service area provider, the certificate application shall be accompanied by a written confirmation from the provider that it will own the water supply system, that it has received the application and that the provider is prepared to assume responsibility for the water supply system subject to the terms and conditions of the ownership agreement. This section also requires the DPUC and/or the Department of Public Health ("DPH") to determine that the person that will own the water supply system has the financial, managerial and technical resources to operate the proposed water supply system in a reliable and efficient manner, and to provide continuous adequate service to consumers served by the water supply system.

Section 2, effective October 1, 2009, amends CGS § 25-32d with respect to

requirements for water supply plans. This section provides that revisions to water supply plans shall be made at times determined by the water company filing the plan or the Commissioner of Public Health, or at intervals of not less than six years nor more than nine years after the most recently approved plan (amended from three and five years, respectively, from initial approval). If a water company fails to meet water supply quality and quantity obligations as prescribed in state law or regulation, the company shall be required to file plan revisions six years after the date of the most recently approved plan. Subsequent plan revisions may consist minimally of updates to elements of approved plans, unless the Commissioner requires the submission of an entire water supply plan. Water supply plans will also now be required to include a brief summary of the water company's underground infrastructure replacement practices, including current and future infrastructure needs, methods by which projects are identified and prioritized for rehabilitation, and replacement and funding needs.

Section 3, effective from passage, makes a technical amendment to CGS §19a-35a with respect to on-site sewage treatment systems.

Section 4, effective October 1, 2009, amends CGS §19a-14b to state that the DPH must adopt regulations concerning radon in drinking water that are consistent with the provisions contained in 40 C.F.R. Parts 141 and 142.

Section 5, effective October 1, 2009, amends CGS §19a-37b to state that the DPH must adopt regulations to establish radon measurement requirements and procedures for evaluating radon in indoor air and reducing elevated radon gas levels when detected in public schools.

Section 6, effective October 1, 2009, makes a technical amendment to CGS §10-220(d) with respect to inspection and evaluation of indoor air quality in school buildings.

An Act Concerning Revisions to Department of Public Health Licensing Statutes

PUBLIC ACT NO. 09-232

Section 20 of this Act, effective from passage, allows the Commissioner of Public Health, with the concurrence of the Commissioners of Consumer Protection and Environmental Protection, to issue a variance to Connecticut agency regulations for the installation and study of standing column geothermal wells, to an institution of higher education located in a city with a population between 100,000 and 150,000 persons and within a specified groundwater zone classification.

Section 47, effective from passage, amends CGS §25-32(b) with respect to the lease of class I land by a water company. This section makes technical amendments to conform the provisions of the statute to the provisions of Section 48 of this Act.

Section 48, effective from passage, allows the Commissioner of Public Health to permit a water company to lease class I land associated with a groundwater source for use for public drinking water purposes to another water company. The acquiring water company must serve 1,000 or more persons or 250 or more customers, and must maintain an approved water supply pursuant to CGS §25-32d. The acquiring water company must demonstrate that the lease will improve the existing public drinking water system and will not have a significant adverse impact on purity and adequacy of the public drinking water supply. An easement to protect the public water supply may be required in connection with the lease.

Sections 1-19, 21-46 and 49-106 contain provisions outside of the scope of this summary.

An Act Concerning Interruption of Telecommunications Service, Scrap Metal Processors and Motor Vehicle Recyclers

PUBLIC ACT NO. 09-243

Section 1 of this Act, effective October 1, 2009, amends CGS §53a-123 to provide that a person shall be guilty of larceny in the second degree if the subject property, regardless of its value, consists of wire, cable or other equipment used in the provision of telecommunications service and the taking of the property causes an interruption in the provision of emergency telecommunications service.

Section 2, effective October 1, 2009, amends CGS §21-11a(a) to impose additional requirements on scrap metal processors so that under certain conditions they must segregate and hold for five days wire or cable that could be used in the transmission of telecommunications or data or scrap equipment, wire or cable that could be used in the transmission or distribution of electricity by an electric distribution company. Scrap metal processors are required to obtain and record certain information on the motor

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vehicle delivering these materials, as well as a description of the materials and a statement as to the location from which they came.

Section 3, effective October 1, 2009, makes a technical amendment to CGS §14-67v with respect to motor vehicle recyclers.

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