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2005 Utility Act Summary

The 2005 legislative session was, once again, active and resulted in significant legislation of interest to the utility and regulated industries. The June special session produced the Energy Independence Act, which significantly affects utilities operating in Connecticut and the agencies regulating them. The following is a summary of bills that we believe could have a substantial impact on utilities and regulated industries, and the consumers who purchase their services.

Pub. Act 05-01, Spec. Sess.: An Act Concerning Energy Independence

Section 1 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-1(a) by adding subdivisions (42) through (44) defining “combined heat and power system”, “grid-side distributed resources” and “Class III renewable energy source”.

Section 2 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-1(a) by changing subdivisions (40) and (41) to replace the definition of “distributed generation” with a definition of “customer-side distributed resources” and to replace the definition of “federally mandated congestion costs” with an expanded definition of “federally mandated congestion charges”.

Section 3 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-19ss and provides that electric distribution companies may own or

operate generation except as permitted by Conn. Gen. Stat. § 16-244e, as amended, and by Section 12 of the Act.

Section 4 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-244e(a)(6), which clarifies the definitions of “generation entity or affiliate” and “electric distribution company” and reiterates prohibition on involvement in generation by electric distribution companies. [See Section 3 discussion.]

Section 5 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-245m and discusses the establishment of energy conservation and load management programs, the Energy Conservation and Load Management Fund and the Energy Conservation Management Board.

Section 6 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-245n, relating to the definition of “renewable energy”, to include electricity from combined heat and power systems and thermal storage systems, and adds provisions regarding the Energy Conservation Management Board, Renewable Energy Investment Fund, related assessments and rate reduction bonds.

Section 7 of this Act, effective July 1, 2005, amends Conn. Gen. Stat. § 16-245d(a) regarding the required components of customer bills. The

Department of Public Utility Control (“DPUC”) has an additional year to adopt regulations to provide that an electric supplier may provide direct billing and collection services for electric generation services and related Federally Mandated Congestion Charges (“FMCCs”) and increases the number of customers to which the regulations will apply.

Section 8 of this Act, effective from passage, is new and requires the DPUC, by January 1, 2006, to establish a program to grant awards to retail end use customers to fund capital costs of customer-side distributed resources. This section also requires the DPUC, by January 1, 2006, to establish a program to grant awards to electric distribution companies to educate, assist and promote investments in customer-side distributed resources.

Section 9 of this Act, effective from passage, is new and establishes a competitive bidding process for the DPUC, by January 1, 2006, to select one or more persons to provide long-term financing for customer-side distributed resources and advanced power monitoring and metering equipment purchased or leased by customers of electric distribution companies.

Section 10 of this Act, effective from passage, is new and requires the DPUC, beginning no later than January 1, 2007, annually to assess and report to the General Assembly on customer-side and grid-side distributed resources projects financed by the Act.

Section 11, effective from passage, is new and requires electric distribution

companies to institute rebate programs under certain circumstances to customers with projects using natural gas.

Section 12, effective from passage, is new and establishes numerous new requirements:

- Section 12(a) requires the DPUC, by November 1, 2005, to identify measures to reduce FMCCs and to order electric distribution companies to implement certain measures, including demand response, other distributed resources, and capacity contracts with generators, by January 1, 2006.
- Section 12(b) requires the DPUC to conduct a contested case, to be completed by January 1, 2006, to establish the principles and standards in developing and issuing requests for proposals (“RFPs”) under this section.
- Section 12(c) requires the DPUC, by February 1, 2006, to conduct a proceeding to develop and issue an RFP to solicit the development of long-term projects designed to reduce FMCCs for the period commencing on May 1, 2006 and ending on December 31, 2010, or such later date specified by the DPUC. These projects may include customer-side distributed resources, grid-side distributed resources, new generation and capacity rights components. Electric distribution companies and their affiliates may bid.
- Section 12(d) requires the DPUC to publish RFPs and permits the DPUC to retain third-party entity services to oversee the development of RFPs and assist the department in its approval of proposals. The reasonable and proper expenses for retaining such third-party entity are recoverable through FMCCs, which

shall be allocated to electric distribution companies in proportion to their revenue.

- Section 12(e) provides that any person, other than an electric distribution company, submitting a proposal pursuant to subdivision (2), (3) or (4) of section 12(c) shall include with its proposal a draft contract that includes the transfer to the electric distribution company of all the rights to the installed capacity. The draft shall include provisions required by the DPUC and shall not exceed a term of fifteen years.
- Section 12(f) requires each person submitting a proposal to agree to forgo or credit reliability must run payments, locational installed capacity payments or payments for similar purposes for any project approved pursuant to section 12(g).
- Section 12(g) requires the DPUC, by May 1, 2006, to evaluate proposals received under section 12(c) for the development of long-term projects designed to reduce FMCCs.
- Section 12(h) provides that if an electric distribution company's proposal pursuant to section 12(g) is approved by the DPUC, the company may develop, own and operate such resources, provided such company shall, not later than five years after such resource begins commercial operation: (1) sell such resource in accordance with Conn. Gen. Stat. § 16-43; or (2) auction the power or capacity, or both, associated with such resource pursuant to an approved plan. The DPUC shall, after notice and hearing, waive these requirements if it determines that compliance would be detrimental to retail customers. Such electric distribution company shall recover, as FMCCs, the unrecovered portions of the full

projected costs in its proposal made under section 12(c).

- Section 12(i) provides for the negotiation in good faith of the final terms of the draft contract by an electric distribution company and provides for DPUC assistance to resolve outstanding issues. The DPUC shall hold a contested case hearing to approve, reject or modify an application for approval of a capacity purchase contract. Section 12(i) further provides the required contract provisions. It also provides that the electric distribution company shall either sell into the capacity markets all or a portion of capacity rights transferred pursuant to this section and use all proceeds to offset FMCCs incurred by all customers, or shall retain such capacity rights to offset electric capacity charges associated with transitional standard offer, standard service or service as supplier of last resort. The costs associated with long-term electric capacity shall be recovered through FMCCs.
- Section 12(k) provides that the DPUC may also order electric distribution companies to submit proposals.
- Section 12(l) requires the DPUC to hold a contested case hearing to investigate any impact on the financial condition of electric distribution companies of long-term contracts before issuing an RFP. If the DPUC determines that entering into such long-term contracts results in increased costs incurred by the electric distribution companies, the DPUC, annually, shall allow such costs to be recovered through rates or in such manner as the DPUC considers appropriate.
- Section 12(m) provides that, on or before January 1, 2010, the DPUC must submit a report to the General Assembly with a recommendation as

to whether the period during which electric distribution companies may submit proposals to solicit the development of long-term projects designed to reduce FMCCs should be extended beyond February 1, 2011.

- Section 12(n) establishes a rebuttable presumption for siting purposes that there is a public benefit in building a facility that has been approved by the DPUC pursuant to this section.
- Section 12(o) provides that the aggregate electric generating capacity for all approved proposals by electric distribution companies pursuant to section 12(g) and section 12(k) may not exceed two hundred fifty megawatts of generating capacity statewide. The DPUC shall give guiding preference in approving the amount of generation capacity in proposals from electric distribution companies to the approximate proportion of each company's service area load.
- Section 12(p) provides that, when the DPUC selects a bid pursuant to section 12(c)(2) and section 12(c)(3) from a person other than an electric distribution company, the DPUC shall grant the electric distribution company that serves the area in which the subject grid-side distributed resource or new generation facility is to be located a one-time, nonrecurring award for investments necessary to improve the electric distribution company's transmission and distribution system to accommodate such facilities in accordance with specified standards. The cost of the award shall be recoverable from FMCCs and is subject to certain limitations.

Section 13, effective from passage, is new and requires electric distribution companies, by October 1, 2005, to

submit an application to the DPUC to: (1) on or before January 1, 2007, implement mandatory peak, shoulder and off-peak time of use rates for certain customers; and (2) on or before June 1, 2006, offer optional interruptible or load response rates for certain customers. It also: (3) requires electric distribution companies to issue comparative analyses to certain customers from March 1, 2006 until December 31, 2006; (4) requires electric distribution companies to apply, by November 1, 2005, to implement mandatory seasonal rates for all customers; and (5) requires electric distribution companies to issue, from April 1, 2006 until March 31, 2007, comparative analyses of the effects of mandatory seasonal rates to customers. It further requires the DPUC to hold a contested case hearing to approve, reject or modify applications submitted for mandatory peak, shoulder and off-peak time of use and seasonal rates.

Section 14, effective from passage, is new and waives back-up power rates for customer-side distributed resource projects installed after January 1, 2006 if the capacity is less than the customer's maximum metered peak load and the resources are available during system peak periods. These costs are recoverable through FMCCs.

Section 15, effective from passage, is new and provides that electric distribution companies may recover their costs and investments that were prudently incurred pursuant to specified sections of the legislation and other restructuring legislation. It also provides for the recovery of underearnings attributed to decreased energy use related to implementing these sections. It also authorizes

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electric distribution companies to earn an incentive under Conn. Gen. Stat. § 16-19kk “for costs prudently incurred by such companies pursuant to this section.”

Section 16, effective from passage, is new and requires electric distribution companies and electric suppliers to demonstrate, on or after January 1, 2007, that not less than one percent of total output or standard service is obtained from Class III resources, increased to two percent on January 1, 2008, three percent on January 1, 2009 and four percent on January 1, 2010. This section also permits the use of an approved conservation and distributed resources trading program to meet these requirements, and annual compliance proceedings.

Section 17, effective from passage, is new and requires municipal electric utilities to accrue certain amounts from each kilowatt hour of their metered firm electric retail sales for investment in renewable energy sources and for conservation and load management programs. This section also creates a Municipal Energy Conservation and Load Management Fund in each municipal electric energy cooperative.

Section 18, effective from passage, amends Conn. Gen. Stat. § 16-50k(a) to add certain customer-side distributed resources projects and grid-side distributed resources projects to the list of facilities that the Siting Council may approve by declaratory ruling.

Section 19, effective from passage, is new and specifies that certain incentive provisions apply only to customer-side distributed resources

and grid-side distributed resources added January 1, 2006 or later.

Section 20, effective from passage, is new and requires the DPUC and the Energy Conservation Management Board to establish links on their Internet web sites to the Energy Star program.

Section 21, effective from passage, is new and requires the DPUC to investigate, and report to the legislature by January 1, 2006, on how best to decouple the earnings of natural gas companies and other public service companies from their sales to promote the state's energy policy.

Section 22, effective July 1, 2005, amends Conn. Gen. Stat. § 16-32f and requires gas companies to submit to the DPUC, every other year, a five-year forecast of loads and resources and, annually, a gas conservation plan. The DPUC shall, in an uncontested proceeding during which it may hold a public hearing, approve, modify or reject the plan. It also provides that the Energy Conservation Management Board shall advise gas companies in the development and implementation of their plans. Each program contained in the plans shall be reviewed by the gas companies and shall be either accepted, modified or rejected by the Board before submission to the DPUC for approval. The Board must report annually to the relevant joint standing committees of the General Assembly.

Section 23, effective July 1, 2005, amends Conn. Gen. Stat. § 16-50x(a) to include petitions for declaratory ruling in the statutory provision conferring exclusive Connecticut Siting Council jurisdiction.

Section 24, effective from passage, amends Conn. Gen. Stat. § 16-50i to except gas transmission lines with a design capacity of less than twenty percent of their specified minimum yield strength from the definition of “fuel transmission facility” in determining Siting Council jurisdiction.

Section 25, effective July 1, 2005, amends Conn. Gen. Stat. § 16-244c(b)(2)(D) with respect to adjustments to the transitional standard offer for the cost of long-term contracts for renewable source generation.

Section 26, effective October 1, 2005, amends Conn. Gen. Stat. § 16-244c(j) and requires electric distribution companies, by July 1, 2008, to file for DPUC approval for long-term power purchase contracts from Class I renewable energy source projects that meet certain criteria. The DPUC must give preference to purchase contracts from projects located in the state that would provide a financial benefit to ratepayers or would enhance the reliability of the state's electric transmission system. The owner of a fuel cell project principally manufactured in this state shall be allocated all available air emissions credits in the Class I renewable energy credits program attributable to the project.

Section 27, effective from passage, requires the DPUC, by October 1, 2005, to conduct a study to determine a reasonable amount of compensation for standard service and whether an electric distribution company should receive compensation for providing service as a supplier of last resort. Not later than February 1, 2006, the DPUC must report its recommenda-

tion to the appropriate joint standing committee of the General Assembly.

Section 28, effective October 1, 2005, amends Conn. Gen. Stat. § 16-245p to require electric suppliers and electric distribution companies to submit certain information to the DPUC and disclose certain information to customers.

Section 29, effective October 1, 2005, amends Conn. Gen. Stat. § 16-262i to expand the regulation-making power of the DPUC to include determining the terms and conditions for the termination of service for reasons other than nonpayment.

Section 30, effective October 1, 2005, amends Conn. Gen. Stat. § 16-331c with respect to the timing of advisory council contributions by cable television companies.

Section 31, effective October 1, 2005, amends Conn. Gen. Stat. § 16-256i(f) by increasing penalties with respect to the telemarketing of telecommunications systems.

Section 32, effective July 1, 2005, amends Conn. Gen. Stat. § 7-374 with respect to certain municipal indebtedness.

Section 33, effective July 1, 2005, amends Conn. Gen. Stat. § 16-244c(b)(1) concerning the transitional standard offer, and requires the DPUC to conduct a proceeding by December 1, 2005 to determine whether there is a practical, effective and cost-effective process under which an electric customer may receive certain information regarding selecting electric generating services. The DPUC must implement its

decision by March 1, 2006. An electric distribution company's costs of participation in this proceeding and implementing the decision shall be recoverable as generation services costs.

Section 34, effective July 1, 2006, amends Conn. Gen. Stat. § 16-245a(a)(2) by establishing that, on or after January 1, 2010, renewable portfolio standards may be met with New York, Pennsylvania, New Jersey, Maryland and Delaware resources or trading programs in those jurisdictions, with DPUC approval.

Section 35, effective from passage, is new and requires electric distribution companies, beginning January 31, 2007, to report annually to the Energy Conservation Management Board on activities under this section.

Section 36, effective July 1, 2005, amends Conn. Gen. Stat. § 16-43(a) to require that dispositions of real property be pursuant to public auction or other public sale procedure. The DPUC may authorize a different procedure on good cause shown.

Section 37, effective from passage, amends Conn. Gen. Stat. § 12-81(51) concerning the treatment of industrial waste before discharge and claims for exemption.

Section 38, effective from passage, amends Conn. Gen. Stat. § 12-81(52) concerning the purchase and lease of certain structures and equipment for the treatment of industrial waste and claims for exemption.

Section 39, increases the appropriation to the DPUC for personal services.

Section 40, effective October 1, 2005, repeals Conn. Gen. Stat. §§ 16-246b (authority of domestic electric company), 16-246c (foreign electric company) and 16-246d (joint ownership of facility and waiver of right to partition).

Pub. Act 05-90: An Act Concerning Third-Party Liability for Contaminated Property

This Act, effective October 1, 2005, is new. It provides that real property owners will not be liable for any costs or damages to any person other than a state or federal government with respect to pollution on or emanating from real property that existed before the owner took title to the property if: (1) the owner did not establish or create a condition or facility at the property reasonably expected to create a source of pollution to the waters of the state and is not otherwise responsible for creating any pollution or source of pollution on the property; (2) the owner is not affiliated with anyone responsible for the pollution; and (3) the Commissioner of Environmental Protection ("DEP Commissioner") has approved an investigation report and final remedial action report demonstrating appropriate remediation. Before investigation or remediation, the owner must notify, by certified mail, the owners of adjoining properties, and reports must be forwarded by certified mail to the adjoining owners.

The Act does not relieve liability if: (1) the owner failed to file or comply with the provisions of an environmental land use restriction created pursuant to Conn. Gen. Stat. § 22a-133o or with the conditions of a variance that was approved by the

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DEP Commissioner; (2) the DEP Commissioner determines that the owner provided information that he knew or had reason to know was false or misleading or otherwise failed to satisfy the requirements for avoiding liability.

The Act further provides that if an owner is found liable because the owner is affiliated with the person responsible for the pollution, the owner shall be liable for a civil penalty of one hundred thousand dollars or the cost of remediating the pollution, whichever is greater.

Pub. Act 05-142: An Act Concerning the Minimum Water Flow Regulations

Section 1 of this Act, effective October 1, 2005, amends Conn. Gen. Stat. § 26-141a and broadens the DEP Commissioner's authority to adopt regulations setting forth standards concerning the flow of water when a dam or other structure impounds or diverts the waters of a river or stream by removing the requirement that those rivers or streams be stocked with fish before the DEP Commissioner has the requisite regulatory authority.

Section 2 of the Act, effective October 1, 2005, amends Conn. Gen. Stat. § 26-141b and requires the DEP Commissioner, by December 31, 2006, and after consultation and cooperation with the Department of Public Health ("DPH"), the DPUC, an advisory group convened by the DEP Commissioner, and any other agency, board or commission of the state with which the DEP Commissioner deems it advisable to consult, to adopt regulations establishing flow regulations for all river and stream

systems, whether or not stocked with fish. This section further specifies the appropriate considerations and requirements for the adopted regulations.

Section 3 of the Act, effective October 1, 2005, amends Conn. Gen. Stat. § 26-141c and requires all persons and municipalities to abide by the regulations adopted by the DEP Commissioner concerning dams and structures impounding or diverting water.

Pub. Act 05-182: An Act Authorizing Law Enforcement Officials to Request Ex Parte Authority to Compel Disclosure of Telephone and Internet Records

This Act, effective October 1, 2005, is new and permits law enforcement officials to request *ex parte* orders from superior court judges to compel: (1) telecommunications carriers to disclose call-identifying information pertaining to a subscriber or customer, or (2) providers of electronic communication services or remote computing services to disclose basic subscriber information. Entities providing information pursuant to such an *ex parte* order will be compensated for their reasonable expenses for providing the information and will be afforded the legal protections provided under 18 U.S.C. § 3124 (conferring immunity for providers of wire or electronic communications services for providing information under certain circumstances) if they provide the information in good faith.

Pub. Act 05-190: An Act Concerning Buffers to Inland Wetlands Areas and Concerning Application of the Conveyance Tax to Land Classified as Farm Land, Forest Land or Open Space Land

Section 1 of this Act, effective from passage, is new and provides that property required as a buffer pursuant

to an inland wetlands agency permit shall be assessed at a value equal to the value of the property if it were an inland wetland or watercourse area.

Pub. Act 05-204: An Act Establishing a Low-Income Energy Advisory Board

This Act, effective from passage, is new and establishes a Low-Income Energy Advisory Board consisting of various representatives of state agencies and a representative of each electric and gas public service company. This new board: (1) shall advise and assist the Office of Policy and Management and the Department of Social Services in the planning, development, implementation and coordination of energy assistance and low-income weatherization related programs and policies; (2) shall advise the DPUC regarding the impact of utility rates and policies; and (3) shall make recommendations to the General Assembly regarding legislation and plans subject to legislative approval to ensure affordable access to residential energy services to low-income state residents. The Secretary of the Office of Policy and Management must convene the first meeting of this new board by August 1, 2005.

Pub. Act 05-210: An Act Concerning the Department of Transportation, Sections 28 through 31

Section 28 of this Act, effective from passage, amends Conn. Gen. Stat. § 13a-126 to provide that the state shall not bear any share of the cost of a public service facility project to readjust, relocate or remove any public service facility located underground in the public right-of-way used for transmitting electricity or an electric trunkline. It further provides that the

Connecticut Department of Transportation (“DOT”) shall evaluate the total costs of a project, including department costs for construction or reconstruction and electric distribution company costs for readjusting, relocating or removing such facility, so as to minimize the overall costs incurred by the state and the electric distribution company. The section also provides that the electric distribution company may provide proposed alternatives to the proposed relocation, readjustment or removal and shall be responsible for any changes to project costs attributable to adoption of the company’s proposed alternative designs. If the electric distribution company and the DOT cannot agree on a plan, the Commissioner of Transportation and the chairperson of the DPUC shall, upon the request of the company, jointly determine the alternative for the project.

Section 29 of this Act, effective from passage, amends Conn. Gen. Stat. § 13a-126c by providing that DOT charges or rates assessed in public services companies for the use of rights-of-way shall not exceed the actual administrative, construction, operation and maintenance costs of the DOT incurred as a result of the use of a nonlimited access state highway. The DOT may estimate such charges or rates and require prepayment provided that any amount in excess of the actual amount is refunded to the public service company.

Section 30 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-19b by adding new subsection (d). This new subsection provides that the DPUC shall periodically adjust the

retail rate charged by each electric distribution company for electric transmission services to recover all transmission costs prudently incurred. The DPUC, after notice and hearing, shall design the retail transmission rate to provide for recovery of all Federal Energy Regulatory Commission approved transmission costs, rates, tariffs and charges and of other transmission costs prudently incurred in accordance with Conn. Gen. Stat. § 16-19e. A transmission rate adjustment clause approved pursuant to this new subsection shall apply to all electric distribution companies similarly affected by transmission costs. The DPUC’s authority to review the prudence of costs shall not apply to any matter over which any agency, department or instrumentality of the federal government has exclusive jurisdiction, or has jurisdiction concurrent with that of the states and has exercised such jurisdiction to the exclusion of regulation of such matter by the state. The section further amends the other provisions of Conn. Gen. Stat. § 16-19b to reflect the addition of the new subsection (d).

Section 31 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-245d by amending the provision concerning the required standard billing format to reflect the possibility of transmission rate adjustments pursuant to the new subsection (d) of Conn. Gen. Stat. § 16-19e, as amended by Section 30 of this Act.

Pub. Act 05-241: An Act Concerning Cellular Mobile Telephone Directories and Customer Inquiries and Complaints Regarding Cellular Mobile Telephone Service

Section 1 of this Act, effective from passage, amends Conn. Gen. Stat. §

16-247s by adding a definition of “carrier” to mean a cellular mobile telephone carrier, a reseller of service provided by a cellular mobile telephone carrier or a retailer of a mobile service, as mobile service is defined in 47 U.S.C. § 153. The section further provides that, unless required by law, no carrier may disclose the cellular telephone number, name or address of a customer to another person for use as a listing in a directory assistance data base or for publication or listing in a directory unless authorized by the customer, and the carrier may not charge a fee or refuse service to a person declining to give such authorization. The section further provides that failure to comply with the section’s requirements constitutes an unfair or deceptive trade practice under Conn. Gen. Stat. § 42-110b.

Section 2 of this Act, effective October 1, 2005, is new and requires the DPUC to set up a toll-free telephone number and web site by January 1, 2006 for information inquiries and complaints concerning cellular mobile telephone carriers and resellers of service provided by cellular mobile telephone carriers. The DPUC must also accept inquiries and complaints by mail. By January 1, 2006, carriers and resellers must notify all customers how to submit inquiries and complaints to the DPUC and must disclose this information to new customers at the point of sale or contract.

Section 3 of this Act, effective from passage, amends Conn. Gen. Stat. § 16-41(a) to add “cellular mobile telephone carrier” to the list of entities required to obey, observe and comply with all applicable provisions

in Title 16 and all applicable regulations adopted by the DPUC.

Pub. Act 05-224: An Act Concerning the Transfer of Title in the Acquisition of a Water Company

This Act, effective from passage, amends Conn. Gen. Stat. § 16-262o to add new subsection (d), which requires that, not later than sixty days after the issuance of an order for an acquisition of a water company, the acquired water company must properly execute and deliver to the acquiring water company all documents necessary to complete the transfer of title to all real and personal property subject to the acquisition order.

Pub. Act 05-227: An Act Concerning Clean Air Strategies

Section 1, effective from passage, is new and provides that no person shall, from the effective date of the section to the effective date of regulations promulgated by the United States Environmental Protection Agency to regulate outdoor wood-burning furnaces, construct, install, establish, modify, operate or

use an outdoor wood-burning furnace except under certain circumstances.

Section 2 of this Act, effective October 1, 2005, amends Conn. Gen. Stat. § 22a-174j and requires the DPUC to complete, by May 1, 2006, an investigation of the potential impact on electric reliability and electric rates created by the promulgation of the regulations under the section. If such investigation concludes that there is no negative impact on reliability and rates, by July 1, 2006 the DEP Commissioner, in conjunction with the DPUC and regulations, shall establish uniform emissions performance standards to regulate air emissions from the generation of electricity supplied to end use customers in the state. The section further establishes the applicable standards.

Pub. Act 05-264: An Act Concerning Outside Legal Counsel to Represent the Office of Consumer Counsel

Section 1, effective October 1, 2005, amends Conn. Gen. Stat. § 16-6a to authorize the Office of Consumer Counsel (“OCC”), in addition to the

DPUC to participate in proceedings before federal agencies and federal courts on utility matters. The section also amends Conn. Gen. Stat. § 16-6a by adding new subsection (c), which provides that, for certain federal proceedings, the Attorney General, upon request of the OCC, may retain outside legal counsel in accordance with Conn. Gen. Stat. § 3-125 to participate in the proceedings on behalf of the OCC, provided the work does not include lobbying activities. All reasonable and proper expenses of such outside legal counsel shall be borne by the public service companies, certified telecommunications providers, electric suppliers or gas registrants that are affected by the decisions of the proceedings. Such expenses shall be apportioned in proportion to the revenues of each affected entity and shall not exceed \$250,000 in any calendar year. The DPUC must recognize such legal expenses as proper business expenses of the affected entities for ratemaking purposes.

The Wiggin and Dana UTILITIES AND REGULATED INDUSTRIES ADVISORY is a periodic newsletter designed to inform clients and others about recent developments in the field of utilities law. Nothing in the UTILITIES AND REGULATED INDUSTRIES ADVISORY constitutes legal advice, which can only be obtained as a result of personal consultation with an attorney. The information published here is believed to be accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues. If you have any requests for topics or other suggestions, please contact Advisory editor Bethany L. Appleby 203.498.4365, bappleby@wiggin.com.

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