

# CLIENT ALERT

*June 2007*

## **GENERAL ASSEMBLY PASSES COMPREHENSIVE ENERGY BILL**

On June 4, 2007, the Connecticut General Assembly passed a comprehensive energy bill affecting taxes, energy efficiency, electricity production, utility rates, greenhouse gases, and numerous other matters important to individuals, businesses, and municipalities. "An Act Concerning Electricity and Energy Efficiency" (House Bill 7432, as amended by LCO No. 8629) was signed by Governor Rell with two line-item vetoes, Sections 126 and 128, regarding bond expenditures and assistance to low-income families. The act's major provisions are outlined below. All provisions are effective from date of passage unless otherwise noted.

In the short term, the act will unfortunately have the likely result of increasing customer bills. The act contains numerous provisions concerning market studies, investigations of generation adequacy and additional incentives for conservation and distributed generation. The costs of such programs are recoverable from customers, mainly through the system benefits charge on customer bills. Those programs and proceedings with costs recoverable from ratepayers are noted below. The main focus of the act is to eliminate the "peak day" usage in Connecticut. Estimates are that 20% of Connecticut's electricity costs are driven by 2% of the hottest and coldest days. The act places the burden on consumers to reduce those peak day usage events in the hope that such reductions will drive prices down.

### **PROVISIONS AFFECTING ALL CONSUMER CLASSES**

The act:

- Creates a new grant program for businesses and state buildings with \$25 million earmarked for fuel cells and another \$25 million earmarked for other Class I renewable energy sources to be financed through the issuance of state bonds.



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- Sets new efficiency standards for a host of goods including lighting, commercial refrigeration, pool pumps and heaters, hot tubs, water coolers, and washing systems. Violations of the new efficiency requirements are subject to fines of \$250 per violation. *Effective October 1, 2007.*
- Expands net metering capability to all Class I renewable energy sources of 2 MW or less, allowing excess production to be carried over month-to-month and annualized excesses to be paid for by the utility at the utility's avoided cost of wholesale power.
- Escalates the renewable portfolio standards of suppliers, requiring production of 20% of electricity from Class I renewable energy sources, with an additional 3% from Class I or Class II renewable energy sources by 2020.
- Sets the value of Class III credits at one cent per kilowatt hour and provides that any customer receiving distributed generation grant funding to return 75% of the economic value of the Class III credits to the Conservation and Load Management Fund.
- Requires utilities to procure standard service on a quarterly basis.
- Allows utilities to submit an application to the DPUC to build peaking generation at cost of service plus a rate of return, which plan must be approved unless it is demonstrated conclusively to not be in the best interest of ratepayers.
- Calls for utilities to assess resources and develop a procurement plan including generation, renewables, demand side management and conservation. All costs of such assessment and procurement plan are recoverable from ratepayers through the system benefits charge.
- Requires the DPUC to issue an RFP for generation sources determined necessary pursuant to the utilities' assessment of needs and allows the utilities to submit responses to the RFP to build new generation. The DPUC may retain experts to assist it in the RFP development process, with the costs of such experts to be recoverable from ratepayers through the generation services charge.
- Expands the Connecticut Energy Advisory Board from 9 to 15 members.
- Allows the DPUC to approve the purchase of existing generating plants by the electric distribution companies.
- Implements the Regional Greenhouse Gas Initiative by auctioning emission allowances and reinvesting the proceeds back into renewable energy programs by the Department of Environmental Protection ("DEP"). *Effective July 1, 2007.*
- Establishes a program for Energy Efficiency Partners to develop effective demand-side management programs, such programs to have a minimum payback ratio of two to one. The program will be administered by the DPUC and partially funded by up to \$60 million of ratepayer

funds, recoverable through the system benefits charge. Additionally, the DPUC may hire experts to assist it and to oversee the program, the costs of which are also recoverable from ratepayers through the system benefits charge.

- Requires electric distribution companies to provide advanced metering capable of net metering and time-of-use pricing to all customers. Meters must be fully deployed before January 1, 2009, and real-time pricing must be available to all customer classes within six months of passage of the act.
- Calls for the DEP Commissioner, within 60 days of passage of the act, to issue a general permit for all distributed generation and emergency and backup generation resources of 2 MW or less, specifying minimum setback provisions, limits on hours of operation, and requirements for air pollution controls.
- Institutes a pilot program to utilize emergency and backup generation to load shift, while reducing environmental impacts. The costs of the pilot program will be recovered through the federally mandated congestion costs charge and shall not exceed \$10 million.
- Provides conservation incentives to customers by comparing June 2007 through August 2007 electric usage to the same time period for 2006. Any customer that has consumed 10% less electricity shall receive a 10% bill credit for generation service charges from June 2007 through August 2007; any customer consuming 15% less electricity shall receive a 15% credit; and any customer consuming 20% less electricity shall receive a 20% credit. All costs associated with the program, including the incentive credits themselves, are recoverable from ratepayers through the system benefits charge.

## **PROVISIONS AFFECTING BUSINESS CUSTOMERS**

The act:

- Orders the Office of Policy and Management (“OPM”) to develop green construction standards for major new commercial construction and renovation that meet or exceed Leadership in Energy and Environmental Design (LEED) silver or two-globe Green Globes standards, including energy standards that exceed ASHRAE 90.1 by at least 20%. *Effective January 1, 2008.*
- Establishes an annual event to promote energy conservation by the DPUC, along with interested manufacturers of compact fluorescent light bulbs. *Effective July 1, 2007.*
- Provides grants and other financial assistance for certain energy efficient construction or renovation projects by higher education, health care, childcare, or non-profit institutions. *Effective October 1, 2007.*

- Requires State-procured equipment to meet or exceed federal energy conservation standards. *Effective October 1, 2007.*
- Provides a property tax exemption for renewable energy technologies. *Effective October 1, 2007.*

### **PROVISIONS AFFECTING MUNICIPALITIES**

The act:

- Allows municipalities to provide a property tax exemption for fuel-efficient motor vehicles, such as hybrids. *Effective January 1, 2008.*
- Permits municipalities to establish Energy Improvement Districts to develop small power plants and conservation programs. The District may possess numerous powers, including bond issuance.
- Requires municipal electricity co-ops to report their promotion of renewable energy. *Effective July 1, 2007.*
- Encourages schools to participate in fluorescent light bulb promotional events and have students sell the light bulbs as school fundraisers. *Effective July 1, 2007.*
- Creates a special grant fund of \$10 million per year to be administered by Connecticut Innovations, Incorporated to assist municipalities with the purchase of renewable energy sources and co-generation sources.
- Expands green building requirements (LEED silver or two-globe Green Globes equivalent) to school construction and renovation projects and increases the state reimbursement percentages for such construction or renovation by two percentage points. *Effective October 1, 2007.*
- Restricts a municipality's ability to take any electric generating facility by eminent domain.

### **PROVISIONS AFFECTING RESIDENTIAL CUSTOMERS**

The act:

- Provides a maximum \$500 rebate to persons replacing their furnaces or boilers with more energy efficient models. The rebate is determined on a sliding scale according to the consumer's taxable income. *Effective July 1, 2007.*
- Provides for rebates to residential customers who replace non-Energy Star air conditioners with Energy Star compliant models. The rebates are set on a sliding scale based on the retail price

of the air conditioning unit purchased, up to a maximum of \$500 for a central air conditioning system.

- Expands Connecticut's energy assistance program for low-income families by increasing the monetary benefit and expanding programs assisting with weatherization and heating equipment tune-up. *Effective July 1, 2007.*
- Lengthens service termination moratoriums during the winter months to May 1. *Effective October 1, 2007.*
- Provides for a real-time energy email and cellular phone alert asking the public to reduce energy usage during peak periods. *Effective July 1, 2007.*
- Requires development of an electric and gas residential conservation program. *Effective July 1, 2007.*
- Exempts from the sales tax solar energy and ice storage systems, weatherization products, Energy Star home appliances, compact fluorescent light bulbs, and other products. *Effective dates vary by specific product.*
- Allows property tax exemptions for renewable energy technology. *Effective October 1, 2007.*
- Requires utilities to provide consumers with information on competitive suppliers.
- Requires the Energy Conservation Management Board to develop a comprehensive residential conservation program.

## **INVESTIGATIONS AND PROCEEDINGS**

The act calls for the following investigations and proceedings to be conducted by the Department of Public Utility Control ("DPUC"), in conjunction with other state agencies, including the Siting Council and Emergency Management and Homeland Security Coordinating Council:

- an investigation of energy security in the siting of generating facilities and transmission lines;
- an investigation of ways in which the State can ensure and enhance electric reliability during times of peak demand;
- an investigation of the feasibility, risks and benefits of different methods of procuring standard service power;
- the issuance of a final decision to approve and adopt interconnection standards that meet or exceed national interconnection standards. If such standards are not finalized by October 1, 2008, utilities are required to meet New Jersey's standards for interconnecting Class I renewable energy systems;

- a proceeding to determine the appropriate share of customer-side distributed generation grants to be assessed on municipal utilities in order to allow municipal utility customers to utilize such programs;
- an investigation of the feasibility of a financial incentive program for the electric distribution companies to stabilize or reduce the state's peak electric demand;
- a proceeding to determine the best way to communicate with consumers about outages and the appropriate number of repair crews to be maintained in both routine and emergency circumstances;
- a proceeding to force the gas and electric distribution companies to decouple distribution revenues from the amount of commodity sales in future rate cases; and
- a proceeding to examine the effectiveness of the conservation measures promulgated by the Energy Conservation Management Board and order the discontinuance of any programs deemed ineffective.

#### **SHIPMAN & GOODWIN LLP UTILITY LAW PRACTICE GROUP**

Our energy lawyers have actively participated in energy industry restructuring in the Northeast. The push toward a competitive market for electric service has caused numerous legal challenges for industry participants and energy users alike. Shipman & Goodwin's energy attorneys combine their extensive regulatory experience with numerous other practice areas such as tax, finance, environmental and land use, and litigation in order to provide a broad array of services meeting the diverse needs of our clients. In particular, our attorneys routinely assist clients in identifying and securing grant funding and below market financing to implement energy and cost-savings strategies. Our energy attorneys are at the forefront of various industry and market-oriented organizations, providing up-to-date market information and insight to our clients.

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