

**STATE OF CONNECTICUT**  
**DEPARTMENT OF PUBLIC UTILITY CONTROL**

RE: DPUC DEVELOPMENT AND : DOCKET NO. 06-01-08PH02  
REVIEW OF STANDARD :  
SERVICE AND SUPPLIER OF :  
LAST RESORT SERVICE : NOVEMBER 8, 2006

**THE UNITED ILLUMINATING COMPANY'S  
PROCUREMENT PROCESS AND RESULTS  
FOR STANDARD SERVICE AND LAST RESORT SERVICE:  
COMMENTS OF THE OFFICE OF CONSUMER COUNSEL:  
ADDENDUM RE:  
FINAL PROCUREMENT RESULTS FROM 2006**

## I. INTRODUCTION

### Summary

1. UI's conduct of its final procurement effort during 2006 for Standard Service (SS) was satisfactory. UI's performance met the DPUC's basic criteria. However, OCC also recommends specific steps for UI to improve its future procurements.
2. The prices UI obtained for its SS slices appear to reflect current conditions in the wholesale market, judging by OCC's target price and otherwise.
3. OCC, having reviewed the joint UI/Levitan recommendations on what SS bids to accept, believes the DPUC should accept those recommendations as filed.

The Office of Consumer Counsel ("OCC") is a participant in this docket, which the Department of Public Utility Control ("DPUC" or "Department") established on its own initiative.

OCC herewith files its **Addendum Re: Final Procurement Results From 2006** to our agency's previous report relating to this matter for The United Illuminating Company ("UI" or the "Company"), specifically:

Comments on UI's Procurement Process and Results, the report OCC filed with the DPUC on August 30, 2006 with respect to UI's procurement of a portion of its Last Resort Service and Standard Service requirements for 2007.

This Addendum incorporates by reference the entire discussion found in the Comments (8/30/06), the OCC report referenced just above, as appropriate. Further, this Addendum uses some or all of the following phrases as defined terms:

- (a) Department of Public Utility Control ("Department" or "DPUC");
- (b) Office of Consumer Counsel ("OCC");
- (c) The Connecticut Light and Power Company ("CL&P");
- (d) The United Illuminating Company ("UI");
- (e) standard service under Connecticut General Statutes ("CGS") § 16-244c ("Standard Service" or "SS");
- (f) supplier of last resort service under CGS § 16-244e ("Last Resort Service" or "LRS");
- (g) Public Act 03-135, An Act Concerning Revisions to the Electric Restructuring Legislation (the "Revised Restructuring Act" or "Act");
- (h) DPUC's initial decision in this docket, June 21, 2006 (the "Initial SS/LRS Procurement Decision" or "Initial Decision");
- (i) The Department's independent consultant in this docket, Levitan & Associates, Inc. ("Levitan").

OCC herewith submits its **Addendum Re: Final Procurement Results from 2006**, supplementing the prior OCC report referenced above.

## **II. DISCUSSION**

### **A. UI's Conduct of its Recent SS Procurement was Satisfactory.**

OCC, as the representative of electric ratepayers, participated closely in recent weeks in every aspect of the UI procurement process for Standard Service and Last Resort Service.

OCC herewith supplements the description of UI's conduct of its SS and LRS procurement which our agency presented in the Comments filed in this docket on August 30, 2006.

Distribution company procurement of both Standard Service and Last Resort Service must meet a number of specific standards. In part, these standards are set out in the statute. In part, these standards have been established by the DPUC.

### **The Statutory Standards**

The Revised Restructuring Act sets out the procurement process for Standard Service in considerable detail, in CGS §§ 16-244c(c)(3), 16-244c(c)(4) and 16-244c(c)(5). The DPUC must approve, for both distribution companies, a procurement plan that meets multiple standards. Among the standards that the Standard Service procurement process and the resulting “portfolio of [Standard Service] contracts” must meet are:

- (a) Distribution company mitigation of variation in the price of Standard Service;
- (b) Sufficiency to meet projected Standard Service load;
- (c) An overlapping pattern most likely to produce just, reasonable, and reasonably stable retail rates, while reflecting wholesale market prices over time;
- (d) Inviting competition, while guarding against favoritism, extravagance and fraud;
- (e) Securing reliable supply while avoiding unusual or excessive pricing;
- (f) Minimum six-month terms, though shorter terms are allowable under strict conditions prescribed by DPUC;
- (g) Bids from generation affiliates of distribution companies are allowed, with certain restrictions.

At the same time, the Revised Restructuring Act says very little about the procurement process for Last Resort Service. The Act does carefully define the (small) group of customers eligible for this service, and limits distribution-company risks related to customer switching (by setting a minimum one-year term on LRS for customers previously on competitive supply).

However, the Act sets out only two requirements regarding the energy supply for Last Resort Service. First, the distribution companies must procure such electricity. Second,

the DPUC must “determine a price for such customers that reflects the full cost of providing the electricity on a monthly basis.”

### **The DPUC’s Standards**

The Initial SS/LRS Procurement Decision (pp. 3-4) provides that distribution company procurement of both Standard Service and Last Resort Service is subject to a number of basic criteria, specifically:

- (a) The process must be fair and impartial to all participants.
- (b) The existing Code of Conduct (relating to distribution companies and generation affiliates) must be strictly observed.
- (c) The procurement effort must notify as broad a group of potential bidders as is practicable, through invitations issued in several available formats.
- (d) The procurement should cost-effectively promote price consistency/stability and minimization of revenue requirements. Criteria for evaluating competing bids must be well-defined, measurable and available to the suppliers in an open and fair manner.
- (e) Potential bidders should have clear opportunities for questions. Bidder access to relevant data should be complete, non-discriminatory and timely, so that the number of bidder responses is maximized.
- (f) The resulting contracts should not limit the pursuit, by multiple entities, of conservation or demand response initiatives.
- (g) Procurement participation should not be limited to bidders with their own fleet of power plants, but should include bidders that can offer supply by managing forward contracts and hedging instruments.

### **Further Particulars on OCC’s Procurement Participation**

In addition to participation in the joint SS-LRS procurement activities described in OCC’s August 30, 2006 report, OCC participated in the more recent SS procurement in the following ways.

1. OCC staff and consultants participated in several conference calls, including calls with potential bidders, and exchanged numerous e-mails with UI staff and Levitan regarding the structure of the auction, evaluation of the bids, and other issues.
2. The OCC's consultants prepared a new set of benchmark prices for the SS procurement, updating for changes in market prices and reflecting the time period of the acquisition.
3. On bid day, OCC staff and consultants were present at UI's offices from 9 a.m., well prior to the bid time of 10 a.m., until after the purchase decisions were made and the supplier(s) notified.
4. The OCC consultants performed independent price comparisons and identified preferred bids, prior to meeting with UI and Levitan staff.
5. OCC staff and consultants participated in the group discussion of the bids leading to UI's final selection of the suppliers.

**OCC's comprehensive participation in the UI procurement effort, as described in our August 30, 2006 report, and as supplemented just above, has given our agency a sound basis upon which to evaluate the extent to which that UI effort meets the standards set out in the applicable statute and in the Initial Decision.**

### **UI's SS Procurement Effort**

In addition to participation in the joint SS-LRS activities described in OCC's 8/30/06 report, the recent SS procurement included the following activities.

1. Throughout the procurement process, UI communicated effectively with potential bidders, responded to questions, encouraged participation, and updated Levitan and OCC on communications received from various suppliers.
2. The Company consulted effectively with Levitan and OCC regarding the timing and structure of the current auction (including the number of slices to be sought and the linking of slices), data on wholesale power costs, methods for analyzing the bids, and the responses to supplier questions.
3. The Company, Levitan and OCC separately analyzed the bids and presented initial conclusions to the entire working group.
4. The Company, Levitan and OCC discussed thoroughly the basis for possible choices, and reached consensus on the preferred bids. That discussion demonstrated that all three parties had thoughtfully considered the costs and risks of alternative combinations of bids.

### **OCC's Evaluation of the UI SS Effort**

Summarizing the above, OCC believes that UI's conduct of its most recent Standard Service procurement was **satisfactory**. Just below, OCC explains the basis for its qualified conclusion on UI's procurement effort.

The DPUC's Initial Decision (p. 7) says that OCC should comment on "any prudence issues" arising during the procurement process. OCC did not observe any UI actions that, on their face, raise important prudence issues or appear to have directly resulted in excess costs to customers.

However, **OCC continues to be concerned that UI did not establish any independent proxy price estimates** for use in evaluating the SS bids received. In our initial Comments on UI's LRS and SS procurement work, filed 8/30/06 with the DPUC, at pp. 12-16, OCC explained this concern in specific detail. That OCC analysis continues to apply. OCC continues to believe that UI should develop its own independent target or proxy prices, for use in each LRS or SS procurement the Company conducts. If necessary, the DPUC should consider ordering UI to so proceed during its future LRS and SS procurements.

**The OCC also is concerned that UI's SS supply may be more expensive than necessary**, due to the Company's failure to solicit bids for power at the ISO Hub, without congestion adders. UI has long been aware that CL&P has taken this approach in that company's last several solicitations.<sup>1</sup> Soliciting such "ISO Hub" bids might have resulted in lower total costs for UI SS customers. The OCC recommends that UI solicit such bids in

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<sup>1</sup> For instance, CL&P described and defended this approach in the TSO incentive fee docket, to which UI is a party. See DPUC Dockets No. 03-07-01RE03 & 03-07-15RE02.

future SS procurements. The proxy prices would be particularly important for comparing bids with and without congestion.

**B. The Prices UI Obtained Appear to Reflect Current Market Conditions**

Within the limits of our available resources, OCC undertook to independently assess the results of UI's current SS procurement effort. Our conclusions include the following:

- The number of participants was sufficient to be consistent with a competitive market.
- Sufficient bids were received to give UI multiple choices for each period for which it was acquiring power.
- The bids were all serious and generally reflected current market conditions.

OCC believes that the level of bidder activity was adequate to support DPUC approval of the recommended contracts.

As discussed in OCC's previously-filed Comments in this docket (i.e., the 8/30/06 filing on UI procurement), our agency developed an analysis of expected prices for each period being procured. For the current procurement, OCC updated the analysis to reflect current market prices and additional analysis of other cost drivers. We used this analysis to evaluate the bids that UI received. While OCC is disappointed with some of the prices of the Standard Service slices UI accepted on November 7, 2006, we conclude that those prices reflect current wholesale market conditions.

C. **The DPUC Should Accept the Joint UI/Levitan Recommendations**

At the close of price day, November 7, 2006, OCC was able to review and evaluate the Joint UI/Levitan Report being filed contemporaneously with these OCC Comments.

That report consists of two documents, each with attachments, as follows:

- Joint Recommendation of The United Illuminating Company and Levitan and Associates Inc., a document approximately 6 pages long, exclusive of attachments.
- Joint Affidavit of Ellen G. Cool and Richard L. Levitan, Levitan and Associates. Inc., a document approximately 9 pages long, exclusive of attachments.

OCC also has specifically reviewed the attachments to the aforementioned documents (some of which UI is filing as confidential).

The Initial Decision (on pp. 8-9) sets out the requirements for the Levitan-UI joint report. Those items are:

- (a) overview of all bids, plus a joint recommendation as to the preferred bidders;
- (b) projected system average rates resulting from the procurement;
- (c) redacted bids, with a motion for protected treatment;
- (d) natural gas and electric futures prices on the date of the procurement;
- (e) attestations from distribution company/Levitan that the procurement met the “basic criteria” set out in the Decision.
- (f) “conclusions and supporting reasoning” in any situations where discretion was exercised.
- (g) the overview mentioned above should be filed as a “compilation”, with appropriate measures to keep it out of FOIA's reach, and should not include the names of the preferred bidders.

OCC believes that UI and Levitan have complied adequately with these requirements of the Initial Decision.

Given the analysis presented in Sections II-A and II-B of these Comments, supra, OCC states the following. We believe that **the DPUC should accept the UI-Levitan recommendations, in full, as filed.**

**III. CONCLUSION**

OCC respectfully urges the Department to take full account of our agency's views as expressed above, and looks forward to further participation in this important proceeding.

Respectfully submitted,

MARY J. HEALEY  
CONSUMER COUNSEL

By: \_\_\_\_\_  
Bruce C. Johnson  
Principal Attorney

I hereby certify that a copy of the foregoing has been mailed and/or hand-delivered to all known parties and intervenors of record this 8<sup>th</sup> of November 2006.

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Bruce C. Johnson  
Commissioner of the Superior Court