

WRITTEN COMMENTS OF THE UNITED ILLUMINATING COMPANY IN  
RESPONSE TO THE DRAFT REPORT PREPARED BY THE CEAB VARIOUS  
ENERGY ISSUES SUBCOMMITTEE ENTITLED "*A REPORT ON VARIOUS  
ENERGY ISSUES FOR CONNECTICUT: PHASE II*"

NOVEMBER 18, 2008

## **I. Executive Summary**

The United Illuminating Company (“UI” or the “Company”) is pleased to have the opportunity to provide these written comments to the Connecticut Energy Advisory Board (“CEAB”) in response to the CEAB’s November 4, 2008 draft report entitled “*A Report on Various Energy Issues for Connecticut: Phase II*” (the “Phase II Report”), prepared by the CEAB’s Various Energy Issues Subcommittee (“CEAB Subcommittee”). The Phase II Report was prepared in response to §58 of Public Act No. 07-242, *An Act Concerning Electricity and Energy Efficiency* (the “Act”), and provides the CEAB Subcommittee’s views on how the State of Connecticut could “coordinate and integrate the state’s energy entities.”<sup>1</sup> The CEAB must issue a final report to the General Assembly by January 1, 2009.

UI both advocated and supported the legislation that reestablished “Integrated Resource Planning” in Connecticut. This critical integrated planning function was discontinued with the advent of electric restructuring. Although the current process has room for improvement, this initial effort has proven to be of significant value and a solid foundation for future iterations of the integrated resource plan (“IRP”). The process enabled the inclusion of a multitude of informed stakeholders, the establishment of appropriate data sets, and the testing of robust scenarios populated with rational assumptions. The effective understanding and utilization of complex modeling tools advanced the efficacy of the planning process and the plan. Major modifications, as recommended by the CEAB Subcommittee, are premature and will likely delay and hinder the progress of the process and evolution of the plan.

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<sup>1</sup> Section 58 also requires the CEAB study to include recommendations on how to achieve the goals of the Regional Greenhouse Gas Initiative and of the state with respect to greenhouse gas emissions, and on promoting indigenous alternative fuel resources.

The Company's written comments address several recommendations in the draft Phase II Report that would reinstate the recently repealed planning authority of the CEAB, would assign certain planning responsibilities of the electric distribution companies ("EDCs") to the CEAB, and would grant standing authority to a state entity to procure energy resources. These recommendations are not supported by the draft Phase II Report. The Act took steps to coordinate various energy planning and procurement functions, including a return to integrated resource planning by the EDCs. These recommendations in the draft Phase II Report would be counterproductive and are directly in conflict with legislative direction.

In Section II of these written comments, the Company explains its opposition to the recommendation in the draft Phase II Report to make the CEAB responsible for preparing an energy plan and developing the IRP. The Act recognized that the EDCs are uniquely qualified to prepare IRPs.<sup>2</sup> This is a function that the companies performed historically prior to electric restructuring, and they remain the entities best suited to perform this function. The CEAB has an important role in reviewing the IRP, but is not well-suited to the initial development of the IRP. While there may be incremental improvements to be made to the IRP process, the framework established in the Act is reasonable and should not be changed to make the CEAB responsible for the creation of the plan. The Subcommittee's recommendations understate the complexity of developing an IRP. The CEAB Subcommittee recommendations would marginalize the expertise of the electric distribution companies, would make the process less efficient and effective, and would add unnecessary costs.

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<sup>2</sup> See P.A. No. 07-242, §51 (codified as Conn. Gen. Stat. §16a-3a).

In Section III of these written comments, the Company addresses the recommendation in the draft Phase II Report to grant a state entity the “standing authority” to procure resources to “capture market opportunities.” This concept may have merit but poses potentially significant risks and costs for ratepayers. The legislature has allowed the Department to conduct targeted procurements to address specific needs, which have produced positive results. Such an approach strikes a better balance than granting blanket authority. In addition, the EDCs have significant procurement expertise, and have worked closely in this regard with the Office of Consumer Counsel (“OCC”), with oversight by the Department of Public Utility Control (“Department”). There are also adequate tools available to the EDCs to capture potential market opportunities, all subject to Department review. The draft Phase II Report does not provide adequate justification for a dramatic expansion of state procurement authority.

## **II. Integrated Resource Plan**

The draft Phase II Report recommends an expansion of the CEAB’s role with respect to producing a “comprehensive energy plan” and in leading the development of an IRP. Phase II Report at 6-8. It states that “the EDCs are not the proper entities to conduct integrated resource planning.” Phase II Report at 8. It also states that the “EDCs should not initially prepare the IRP,” though it acknowledges that this was not a view shared by all members of the Subcommittee, and that the EDCs “should be closely connected to the IRP development to capture the information and expertise that the EDCs possess.” Id.

The Company disagrees with these aspects of the CEAB Subcommittee’s draft report. With respect to the comprehensive energy plan (as relates to the electricity

sector), the CEAB was authorized to produce an energy plan for three years, beginning in 2004 until 2007, when the authority was then repealed by the General Assembly in the Act. If the CEAB recommends reinstatement of the state energy plan, it should identify how this construct would be an improvement as compared to CEAB's prior planning effort and product and should also identify ways to limit redundancies to the planning that occurs on a regional basis by ISO New England, and from the information already produced on a regular basis by the Connecticut Siting Council, the Department and other agencies.

With respect to the IRP process, the recommendation to modify the role of the EDCs is misguided. The CEAB Subcommittee's recommendation is based on a faulty premise and vaguely stated concern that the "EDCs have disparate economic incentives associated with different resources that comprise an IRP," which could create an appearance of bias. This assertion is flawed and ignores the regulatory checks and balances of the current process, including the Department's substantial role in reviewing the IRP. In fact, the draft Phase II Report properly characterizes the Department's oversight as an "open and transparent public process." Phase II Report at 9. The argument regarding bias could be made about any entity with expertise or experience with energy resources, yet the draft Phase II Report does not address how the CEAB might temper an appearance of bias among its own members, or its consultants. To exclude the entities within the state who have real world experience would render the IRP a theoretical exercise rather than a practical guide. The General Assembly, in enacting the IRP process, has concluded that the EDCs have the experience and expertise to take the lead role in the IRP. The EDCs' performance on the IRP has supported the General

Assembly's conclusions. The CEAB Subcommittee's "concern" is further undercut by the fact that the process developed in the legislation clearly provides roles for regulatory bodies. The open and transparent public process of the Department assures that any economic or philosophical interest of any participant can be explored fully before any recommendations contained within the IRP are adopted.

At the November 13, 2008 public hearing, NRG Energy, Inc. ("NRG") was the sole party that concurred with the CEAB's concern regarding EDC bias. NRG characterized the EDCs' 2008 IRP as being transmission focused. This assertion has no merit whatsoever. The EDCs provided four recommendations, none of which were related to, or demonstrated a bias toward, transmission.<sup>3</sup> As an owner of substantial generation in Connecticut, NRG may be biased against transmission.

The draft Phase II Report understates the complexity of preparing the IRP. The EDCs are the entities best suited to develop the IRP, as recognized in §51 of the Act. The EDCs have expertise in all key areas needed to develop the IRP, including but not limited to demand side management, energy efficiency, transmission and distribution planning, procurement and resource adequacy. The CEAB role should continue to be associated with reviewing the work of the EDCs and not the development of the IRP. To do so would require the CEAB to obtain additional resources that would be duplicative of the expertise and resources already possessed by the EDCs, and paid for by electric customers.

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<sup>3</sup> The four 2008 IRP recommendations in the EDCs' report are as follows: 1) Maximize the use of demand side management (DSM), within practical operational and economic limits; 2) Explore other power procurement structures such as longer term power contracts on a cost-of-service basis with merchant and utility owners of existing and new generation; 3) Revisit the structure and costs of Connecticut's renewable portfolio standard (RPS); and, 4) Consider potential ways to mitigate the exposure of Connecticut consumers to the price and availability of natural gas.

The EDCs have expertise that would be marginalized if the draft Phase II Report recommendations were adopted. The EDCs have the expertise to fully understand and identify analytical flaws and nuances in developing the IRP and to provide this function on a daily basis. In contrast, CEAB would have to rely almost entirely on outside consultants to do so, without having the in-house experience and expertise to be sure that the IRP development remains on track. In the alternative, the CEAB would have to substantially replicate the expertise that already exists at the EDCs by hiring its own professional staff. Neither approach provides for a process that is as reliable, efficient or cost-effective as having the EDCs develop the IRP.

Other parties have recognized that the EDCs have done a good job preparing the IRP when taking into consideration time constraints. In direct testimony, OCC's witness Paul Chernick stated that he considered the IRP to be "a good first effort." *See* Docket No. 08-07-01, OCC Direct Test. dated Sept. 17, 2008, at 6, 17-18. Also, at the November 13, 2008 public hearing on the draft Phase II Report, Roger Koontz from Environment Northeast spoke out in strong support of the EDCs' continued preparation of the IRP.

A collaborative approach led by the EDCs' subject matter experts is the optimal process. Input during the early stages of the IRP process from the CEAB, the Department of Environmental Protection ("DEP"), the Connecticut Clean Energy Fund, ECMB and other key stakeholders is essential. Collaboration at the front end will provide for an open and transparent process. As a result of the experience gained through the first IRP process the level of collaboration has improved dramatically in the development of the 2009 plan, and UI expects that trend to continue for the 2010 plan. As the CEAB is well aware, the EDCs have collaborated extensively with the CEAB's

IRP subcommittee during the preparation of the 2009 plan, and in fact have shared plan outlines with the CEAB, and have altered the scope and content of the plan in response to CEAB input. The EDCs have also worked collaboratively with the DEP in developing the environmental section of the 2009 plan. The CEAB's recommendation that the EDCs not prepare the initial plan is all the more puzzling in light of this improved and enhanced level of collaboration. The CEAB Subcommittee's recommendation would eliminate a process that is evolving and improving, and start from scratch with a process that is far less likely to be successful.

Finally, the CEAB should recommend that the IRP process be conducted biennially, instead of annually. The IRP is intended for long-term planning, and procurement plans should be developed to meet the broad goals of the long-term plan. The draft Phase II Report states that "planning should be ongoing." Phase II Report at 10. While long-term planning should indeed be a process that is repeated at regular intervals, and could be considered as "ongoing" on that basis, it should not be open ended and reactive to short term changes. Such an approach would create frequently moving planning targets, which creates risk for customers. The IRP should be robust enough to withstand short-term fluctuations in market prices without constant reaction to short-term market events. The issue becomes one of long-term policy planning versus tactical implementation. Fuel price impacts should be addressed as one of the "what if" scenarios in the plan, with procurements yielding a robust portfolio of resources that will mitigate the impact of such changes and other exogenous factors.

### **III. Procurement Activities**

The draft Phase II Report recommends a broad expansion of the state's role in

procurement activities, stating that “a state entity should have standing authority to act promptly to capture market opportunities that clearly advance or avoid harm to an identified state objective.” Procurement by a state entity is discussed in theoretical terms, but there is no explanation as to why this approach would provide advantages to customers over current methods. There is also no indication of how such an approach would promote coordination and integration of the state’s energy entities, as contemplated by §58 of the Act.

This concept would require the state entity to make rapid determinations that affect ratepayer costs and risks, in reaction to short-term market events, with limited due process to protect ratepayer interests. The draft Phase II Report speaks in vague terms about “limited instances” when such authority could be needed, but gives no specific examples from recent history when having such authority would have yielded a benefit to customers.

The EDCs have significant expertise with respect to procurement. They are active in the market, and have the expertise and ability to act on potential opportunities as they arise. The Department and the OCC have praised the Company’s performance in connection with the procurement of standard service and last resort service power contracts. Connecticut customers have benefited from UI’s procurement decisions, which were made with input from the OCC and approved by the Department. The Department has also authorized the EDCs to submit for approval long-term bilateral contracts and renewable energy certificate contracts, if these types of opportunities arise.<sup>4</sup> The CEAB should support the continuation of this combined approach.

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<sup>4</sup> See Docket Nos. 06-01-08RE01 and 07-06-58, decision dated April 2, 2008; Docket No. 07-06-61, decision dated July 30, 2008.

In addition to the EDCs' activities, there have been several cases when the state has determined that it would be appropriate to engage in a targeted procurement. The legislature authorized the Department to procure capacity resources and peaking generation, which were both in response to specifically identified needs. The Phase II Report references those proceedings, but provides no indication as to how those proceedings would have yielded an outcome that was more beneficial to customers if they had been conducted by a state entity proceeding under "standing authority." In authorizing the EDCs to pursue long-term bilateral and renewable energy certificate contracts, the Department was careful to recognize the due process concerns associated with review and approval of such contracts. UI is concerned by suggestions in the draft Phase II Report that the standing authority of the state entity could be exercised in some instances without an opportunity for full administrative review. The report suggests that the IRP "could include pre-approval of certain contracts" under specified criteria, but this is an unrealistic suggestion in light of constantly changing market conditions. *See* Phase II Report at 14.

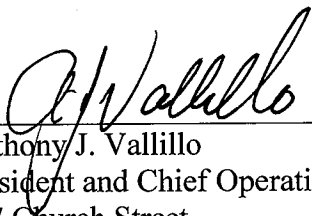
It is also important to consider how purchases by a state entity could fit within the current portfolio of standard service and last resort service contracts. If the EDCs identify opportunities for long-term bilateral or REC contracts, the Department will need to consider whether such purchases would be used to meet the needs of all customers or just a subset of customers, and also how such purchases may impact renewable portfolio standard requirements. The EDCs are in the best position to pursue such opportunities in a coordinated and integrated manner, and to make appropriate recommendations on such issues to the Department.

**IV. Conclusion**

The Company appreciates this opportunity to provide written comments on the draft Phase II Report. The Company encourages the CEAB to consider these comments prior to finalizing its report to the General Assembly, and looks forward to further dialogue with the CEAB on these issues.

Respectfully Submitted,

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