

## CONNECTICUT ENERGY ADVISORY BOARD

August 31, 2007

### WRITTEN COMMENTS OF THE UNITED ILLUMINATING COMPANY ON RFP EXEMPTION CRITERIA

The United Illuminating Company ("UI") submits these written comments in response to the Request for Comment on Reactive RFP Exemption Criteria ("Request") issued by the Connecticut Energy Advisory Board ("CEAB") on August 7, 2007. UI appreciates the opportunity to provide input on an issue that can affect the cost and reliability of electric service and infrastructure for many years to come.

The Request lists seven circumstances for consideration as potentially sufficient to justify waiving the issuance by the CEAB of a reactive Request for Proposal ("RFP").

- a. The Project provides evidence to the CEAB that it sought alternative solutions from the market in an open and transparent solicitation process to meet the stated need or parts of the stated need in the context of formulating the proposal and that no alternative solutions responded to such solicitation.
- b. The CEAB has issued an RFP for the same or materially similar facility proposed to meet the same or similar need and: 1) no alternative solution responded to such RFP; or, 2) no alternative solution came forward in response to the RFP that, in the CEAB's judgment, favorably relate to the Preferential Criteria.
- c. The Project provides evidence to the CEAB that it has been selected by the Department of Public Utility Control following a competitive bid process that solicited a range of energy infrastructure solutions to meet a need recognized by the State of Connecticut.
- d. The Project provides the CEAB comprehensive alternative solution analysis, which analysis demonstrates to the CEAB's satisfaction that alternative solutions to the stated need are not technically viable; do not conform to the Preferential Criteria; and/or, are cost prohibitive.

- e. The Project provides the CEAB evidence that: 1) the Project's characteristics, such as its size and Connecticut Class I renewable energy source status, would not preclude the development of additional projects with the same characteristics; and 2) the Project materially conforms to the Preferential Criteria.
- f. The Project provides evidence to the CEAB that the time or cost associated with a Reactive RFP would jeopardize the Project's viability if the Project: 1) has a unique profile, such as, for example, a relatively small, low cost project with no environmental or quality of life impacts; 2) has exigent circumstances; and, 3) the Project materially conforms to the Preferential Criteria.
- g. Any other fact or circumstance that, in the CEAB's judgment, renders a Reactive RFP unnecessary.

UI respectfully submits that for smaller projects (i.e., up to \$50 million), potential criteria b, c and e may be sufficient to justify waiving the statutory reactive RFP requirement, provided that the CEAB confirms that the criteria have actually been met. However, for major projects (expected cost over \$50 million), an RFP should be utilized. In view of the substantial stake of Connecticut's consumers and businesses in assuring that there are no reasonable alternatives to meeting the system needs to be addressed by projects of such magnitude, one should err on the side of caution and issue an RFP. Because projects of this scope have a very long development and approval lead time, the slight time delay that might result from an RFP would likely not be material (especially if planned for in advance). The benefit to the State, on the other hand, could be substantial if an alternative is proposed.

Potential criteria a and d in the Request should be rejected as general bases for exemption. In essence, adopting either criterion without special circumstances and protections in place would mean that the CEAB would be accepting as its own a process performed by an entity with a charge/charter and purpose different than those of the CEAB. In many cases, the substitute party's assumptions, judgments, method of

analysis, etc. are not thoroughly nor publicly known and may be outdated by time the reactive RFP would be triggered. Moreover, it would require substantial time, cost and effort for the CEAB to satisfy itself that the assumptions, judgments and analyses prepared by the other party lead to the same results as if the CEAB itself had undertaken the work with its consultants. It would be more efficient, and more transparent to stakeholders, to issue the RFP in such a situation. Such process would also guard against a situation where ratepayers are burdened with greater localized costs but have been refused an opportunity to monitor and participate in the project because their interests were not adequately represented by a participant.

Under certain specific, special conditions, potential criteria a and d might be acceptable bases for not proceeding with a reactive RFP. For example, if a major transmission project were jointly sponsored by both electric utilities and the municipal utilities in the State, and the filing by the project clearly established that alternatives including demand response, conservation and generation were fully considered, and the assumptions, judgments and method of analysis were thoroughly and commonly known, a waiver or exemption could be appropriate.

With respect to potential criterion f, the evidence required to be provided by the project includes three safeguards that, taken together, should be sufficient to justify a waiver of the reactive RFP requirement. UI assumes that potential criterion g, which allows the CEAB to exempt specific projects based on its own judgment of facts and circumstances includes, as mandated by statute, the requirement that the CEAB articulate the reasons for its determination so that the underlying rationale for the same is readily

apparent and so that the rationale is at least as compelling as the criteria resulting from this strawman/process.

The reality and the perception of a full and unbiased process is important to assure consumers that all reasonable alternatives have an opportunity to be brought forward and considered to meet electric infrastructure needs. Potential exemption criteria and circumstances should be evaluated with that goal in mind. It is important that the State, representing the interest of all electric consumers, adopt a process that does not delay projects unreasonably, but protects customers' interests.

Respectfully submitted,

THE UNITED ILLUMINATING COMPANY

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