



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

**DOCKET NO. 00-08-31 OFFICE OF CONSUMER COUNSEL PETITION FOR DPUC
INVESTIGATION OF POTENTIAL OVER-EARNINGS BY
THE CONNECTICUT LIGHT AND POWER COMPANY**

October 6, 2000

By the following Commissioners:

Jack R. Goldberg
Linda Kelly Arnold
Glenn Arthur

DECISION

On August 31, 2000, the Department of Public Utility Control (Department) received a Petition from the Office of Consumer Counsel (OCC) to initiate a proceeding to determine the need for an interim rate decrease in the rates currently being charged by The Connecticut Light and Power Company (CL&P or Company). The Petition was filed pursuant to General Statutes of Connecticut (Conn. Gen. Stat.) § 16-25a, which requires a Department response as to whether a hearing will be held on the petition within 30 days of its receipt.

In its Petition, OCC states that a statutory trigger requiring a review of potential overearnings by CL&P may have been exceeded. Specifically, OCC states that CL&P may have exceeded, or will soon exceed, its allowed return on equity of 10.3% by more than 100 basis points because CL&P's earnings report for the second quarter shows an ROE of 13.12%. Pursuant to Conn. Gen. Stat. § 16-19(g)(1), the Department is required to hold a special public hearing on the need for an interim rate decrease if a public service company has, for six consecutive months, earned an ROE which exceeds the return authorized by the Department by at least one percentage point. OCC further notes that a Company proposed overearnings mechanism and stranded cost write-

down in Docket No. 00-01-11, Joint Application of Consolidated Edison, Inc. and Northeast Utilities for a Change of Control, imply overearnings. According to the OCC, the stranded cost write-down would mask near-term overearnings by reducing earnings, and the proposed overearnings mechanism, which would allow CL&P to retain 200 basis points of overearnings past the current allowed ROE of 10.3%, would address overearnings through 2005. OCC implies that CL&P offered the write-down and overearnings mechanism to address its overearnings exposure through 2005.

Further, OCC states that the overearnings statute can also be triggered by operation of Conn. Gen. Stat. § 16-19(g)(3) if the Department finds that a utility may be collecting rates that are more than just, reasonable and adequate. OCC argues that CL&P's recent report showing a 13.12% ROE meets this statutory threshold, because it exceeds CL&P's authorized ROE by more than triple the 100 basis point trigger found in § 16-19(g)(1).

OCC argues that CL&P should be required to supply monthly figures for its actual ROE. This information is necessary, according to OCC, to enable the Department to assure that CL&P's ratepayers are not currently paying excessive rates.

On September 5, 2000, CL&P responded to the Petition, stating that the Petition is untimely and fails to conform to the policy established by the Department for initiating overearnings reviews. CL&P cites the Department's April 26, 1996 Decision in Docket No. 76-03-07, Investigation to Consider Rate Adjustment Procedures and Mechanism Appropriate to Charge or Reimburse the Consumer for Changes in the Cost of Fossil Fuel and/or Purchased Gas for Electric and Gas Public Service Companies. In that Decision, the Department allowed CL&P to file financial data reporting its ROE on a quarterly rather than monthly basis. According to CL&P, because its most recent earnings reports show an earned ROE of 9.75% for the 12-month period ending in March 2000, and 13.12% for the 12-month period ending in June 2000, the required six consecutive months of overearnings required by the statute have not occurred, and therefore Conn. Gen. Stat. § 16-19(g)(1) is not triggered.

CL&P further states that in order to achieve efficiencies and economies, it no longer calculates, on a monthly basis, the items necessary to generate a reliable monthly ROE report. According to the Company, reconstructing the ROE data desired by OCC would require many months of "hard close" reconstruction that is now performed only on a quarterly basis.

CL&P also adds that the overearnings statute does not apply during the standard offer period, and that even if it does, the overearnings mechanism proposed by CL&P in Docket No. 00-01-11, if adopted, addresses overearnings through 2005. Additionally, the Company states that one of the bases for OCC's request is incorrect; specifically, CL&P states that its proposed write-off in Docket No. 00-01-11 comes with a commitment to exclude that write-off for overearnings calculation purposes. The Company did not directly address the OCC's argument with respect to Conn. Gen. Stat. § 16-19(g)(3).

The Department rejects OCC's petition without prejudice. The Department considers OCC's arguments concerning § 16-19(g)(1) a collateral attack on the

Department's April 25, 1996 final Decision in Docket No. 76-03-07. In that Decision, the Department considered all parties' arguments related to CL&P's quarterly reporting proposal, and found that quarterly reporting would allow the Department to fulfill its duty within the 6-month period contained in Conn. Gen. Stat. § 16-19(g). Therefore, OCC is collaterally estopped from requesting that the Department now order monthly ROE reporting.

The Department also declines to open an investigation into potential CL&P overearnings under its discretionary authority in Conn. Gen. Stat. § 16-19(g)(3). On September 22, 2000, the Department released a draft Decision in Docket No. 00-01-11 that requires a 3% reduction to CL&P's distribution rates as a condition of that merger. Because this rate reduction is likely to mitigate any concerns of near-term overearnings, the Department will not open an investigation into potential CL&P overearnings at this time.

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This Decision is adopted by the following Commissioners:

Jack R. Goldberg

Linda Kelly Arnold

Glenn Arthur

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

10/12/2000
Date