

**BEFORE THE
JOINT COMMITTEE ON ENERGY AND TECHNOLOGY**

September 08, 2020

TESTIMONY OF GRETCHEN FUHR

on behalf of

CONSTELLATION NEWENERGY, Inc.

on

**LCO 3920 - An Act Concerning Emergency Response by Electric
Distribution Companies and Revising the Regulation of Other Public
Utilities**

Energy & Technology Committee
Connecticut General Assembly

Public Hearing – September 08, 2020

Distinguished Members,

Constellation NewEnergy (“Constellation”) respectfully submits the following written testimony regarding LCO 3920 - An Act Concerning Emergency Response by Electric Distribution Companies and Revising the Regulation of Other Public Utilities. Constellation, an Exelon company, is a leading competitive energy company providing power, natural gas, renewable energy, and energy management products and services for homes and businesses across the continental United States. We provide integrated energy solutions — from electricity and natural gas procurement and renewable energy supply to energy efficiency and distributed energy solutions — that help customers strategically buy, manage and use their energy. Today, approximately 2 million residential, public sector and business customers, including those here in the Connecticut, rely on our commitment to innovation, dependability, transparency and service.

Constellation suggests some technical suggestions, as described below, the majority of which concern Section 18 of the bill, which would require suppliers to obtain consent from the Public Utilities Regulatory Authority (“the Authority”) for any assignment or transfer of a customer contract. We appreciate the Committee’s effort to provide some clarity around this issue, which has represented an area of ambiguity for companies purchasing or selling books of business that involve Connecticut contracts. However, the process proposed would make Connecticut an anomaly among states that have addressed this issue and impose undue and unnecessary burdens on licensed competitive suppliers.

The retail energy supply market has experienced and continues to experience consolidation through acquisitions. This ultimately benefits customers, as smaller companies that may be challenged by increasingly stringent consumer protections are acquired by larger companies with the resources to prioritize compliance and improve customer service. In some cases, the business is being acquired through bankruptcy, or because the smaller supplier is otherwise in distress. Because the acquiring companies are typically established in the electricity supply business and have their own retail licenses, these acquisitions typically take the form of asset acquisitions, including assignment of underlying customer contracts.

While we appreciate that the Authority should be made aware of such acquisitions in advance, requiring them to provide consent when both suppliers are duly licensed in the state and the acquiring supplier agrees to serve all customers under their existing agreements through the remainder of their term, creates an unnecessary barrier for these acquisitions, which typically involve businesses that span multiple states and many millions of dollars. Adding another affirmative approval to the list of requirements for such a transaction could unnecessarily hold up an entire transaction, potentially having an adverse effect on employees and customers in Connecticut and other states. It also may serve to

devalue the entire transaction, or even deter potential buyers, as it adds an additional layer of risk that must be factored into the transaction.

Instead, we would suggest Connecticut take the same approach as the majority of states that have addressed this issue in the past and require suppliers to provide thirty days' advance written notice to the Authority, the affected utilities, and the Office of Consumer Counsel ("OCC") of any such acquisitions. That notice, which would confirm that the suppliers transacting are duly licensed within the state and will be serving all acquired customers under the terms of their current contracts throughout the term of those contracts, would provide the Authority, the utilities or the OCC the ability to raise any concerns they may have with the acquisition. At the same time, it would not require affirmative action on the part of any of those parties if they did not have any such concerns. As other states have concluded, this approach strikes the balance between providing the affected parties with the information and assurance they need, while not impeding businesses looking to grow within the state.

To implement the changes described above, Constellation proposes that Section 18 of the draft bill be amended as follows:

Sec. 18. Subsection (j) of section 16-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2020*):

(j) No license may be transferred, ~~and no customer may be assigned or transferred, without the prior approval of the authority.~~ No customer may be assigned or transferred from one electric supplier to another without Notice of the assignment or transfer of a customer shall be provided to the authority at least thirty days' prior written notice to the authority. Such notice shall specify the nature of the transaction including the effective date of the assignment as well as confirmation that the terms and conditions of the customers' contracts at the time of the assignment shall remain the same for the remainder of their contract terms. ~~to the effective date of the assignment or transfer of a customer from one electric supplier to another electric supplier. The authority may, upon its review of the notice, require certain conditions or deny assignment or transfer of the customer. Customer assignment or transfer shall be approved by the authority within thirty business days of the authority's receipt of notice from the electric supplier unless the authority and electric supplier agree to a specified extension of time.~~ The authority may assess additional licensing fees to pay the administrative costs of reviewing any request for such a license transfer.

In addition to this primary issue, Constellation suggests minor technical changes to the provision eliminating Early Termination Fees ("ETFs") to remove a clause that is no longer necessary if ETFs are entirely prohibited for residential customers.

Lines 806-808: (7) (A) No contract for electric generation services by an electric supplier shall require a residential customer to pay any fee for termination or early cancellation of a contract, [in excess of fifty dollars, provided when an electric supplier offers a contract, it provides the residential customer an estimate of such customer's average monthly bill, and provided further it] ~~it shall not be considered a termination or early cancellation of a contract if a residential customer moves from one dwelling within the state and remains with the same electric supplier.~~

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Gretchen Fuhr".

Gretchen Fuhr

Senior State Government Affairs Manager

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