

## **MUNICIPAL ELECTRIC CONSUMER ADVOCATE** **FOURTH QUARTERLY REPORT**

During the fourth quarter of 2018, the following matters were addressed by the Municipal Electric Consumer Advocate (MECA):

- **FIRST ANNUAL PUBLIC FORUM:** On October 10, 2018, hosted the first annual public forum, mandated by Public Act 17-73, at the CMEEC headquarters in Norwich.
  - Provided a detailed, 34 slide presentation to the public outlining my background, a brief history of co-operative arrangements and the 1976 CMEEC enabling legislation;
  - Also provided a detailed review of accomplishments and improvements implemented in the CMEEC organizational structure to date, including: the establishment of an updated ethics policy, travel policy, improved indemnification parameters, rebid of the forensic audit, and improved website transparency;
  - In addition, indicated the proposed list of priorities for the last quarter of 2018, and for 2019, including: continued research into an appropriate benchmarking model against which to measure CMEEC's performance, further work on suggested parameters for a new report by CMEEC to the public, and analysis of CMEEC's business transactions in 2019, including purchased power arrangements, power sales contracts, and generation agreements;
  - Provided follow up communications and briefings on the Forum slides and presentation to various members of the public who attended or were unable to attend.

A copy of the slide deck is attached to this quarterly report and should be available on the CMEEC and Connecticut Office of Consumer Counsel websites.

As indicated in the prior quarterly report, in connection with the Public Forum, contacted the heads of CMEEC member municipalities in advance of the Forum to invite them to attend. In addition, provided them with sample advance notices to post on municipal websites or in any manner they saw fit, to inform downstream ratepayers of the Forum and the opportunity to attend.

In connection with the Forum also provided similar sample advance notices to the CMEEC General Counsel to disseminate to Member Electric Utilities for posting on their websites and for dissemination to downstream ratepayers.

- **FEDERAL INDICTMENTS OF CMEEC OFFICIALS AND FORMER BOARD MEMBERS:** Undertook the following actions in response to the Federal Indictments of the CMEEC CEO, CFO, and former Board Members on November 8, 2019:
  - Legal research, including: corporate liability in criminal indictments, non-profit organization indemnification obligations and review of a recent out of state PUC decision disallowing pass-through to ratepayers of certain litigation defense costs where the utility failed to comply with the law, was sued and then lost the litigation;
  - Submitted inquiries to CMEEC General Counsel on various related topics potentially impacting downstream ratepayers including: indemnification, expense reimbursement under CMEEC Directors and Officers casualty coverage, CMEEC bonding of key officers, and pursuit by CMEEC of recoupment of expenditures via litigation;
  - Submitted inquiries to Blum Shapiro, CMEEC's annual financial auditor, re: their knowledge of a so-called "contra-margin fund" used to finance the travel and expenditures at the core of the indictment;
  - Submitted inquiries to CohnReznick, the forensic auditor selected to provide a 5 year forensic audit of CMEEC's operations, and to CMEEC's General Counsel, relating to the timing of the release of the audit report and its scope in light of the indictments (which had been announced before the forensic audit report was released);
  - Communicated with State of Connecticut Office of Consumer Counsel staff, FOIC staff, and Counsel at the Office of the Attorney General;
  - Responded to requests for information from a state legislator, state legislative staff, the press and members of the public;
  - Participated in multiple Board and Committee meetings discussing topics relating to the indictments, including the Special Investigation Committee (see more detail below).
- **SPECIAL INVESTIGATION COMMITTEE PARTICIPATION:** Represented downstream ratepayer interests in several meetings of the CMEEC Special Investigation Committee, established by the CMEEC Board in response to the Federal indictments. Participation included:
  - Suggesting that no parties who attended the trips at issue in the indictments be on the committee; that meetings be posted no less than 24 hours before scheduled commencement and that the 30 day unpaid leave of CEO and CFO was inconsistent with the greater time period required by outside counsel retained by CMEEC to investigate indictment-related activities. The requested actions were instituted and the unpaid leave was ultimately extended;
  - Successfully advocating against a proposed requirement that any employees, Board members or members of the public be required to petition CMEEC General Counsel in order to contact the outside counsel investigating the indictment-related activities. Such a requirement would have had a chilling effect on potential disclosure of pertinent information,

and was inconsistent with CMEEC's newly adopted Code of Ethics. The proposal was rescinded;

- Obtaining agreement to delete proposed language in the Committee charter that the Committee could regularly meet in executive session, after pointing out that nothing in the relevant sections of the Connecticut Freedom of Information Act supported such use of executive session.
- **BENCHMARKING**: Issues relating to refining the CMEEC benchmarking process this quarter included the following:
  - Extensively questioned the representative of the American Public Power Association at the November 15, 2018 Board Meeting, during his presentation on benchmarking, regarding the inability to obtain national benchmarking information from other Joint Action Agencies (non-profit co-operatives) like CMEEC;
  - As a result of the extended discussion and Q&A, concluded additional benchmarking against the non-profit Wallingford Municipal Electric Utility (MEU) purchased power costs could provide a viable and potentially more relevant benchmark than the current benchmark against for-profit entity, Eversource;
  - Reviewed responses from utility consumer advocates in other states to a request for information re: benchmarking processes via NASUCA (the National Association of State Utility Consumer Advocates);
  - Posed several benchmarking questions to Eversource re: appropriateness of use as benchmark by CMEEC;
  - Contacted the Wallingford MEU and obtained information regarding purchased power costs (which is also available to the public);
  - Shared information with CMEEC staff with request that it provide information in similar format in future monthly Board briefings;
  - Also reached out to Wallingford MEU's purchasing agent, Energy New England (ENE), to learn more about their purchasing model;
- Discussions with CMEEC and ENE are anticipated to continue in the first quarter of 2019.
- **MEETING WITH STATE LEGISLATOR**: After contact by her staff, met with State Senator Catherine Osten, to discuss my public forum presentation, activities to date highlighted in that presentation, and my experience as the Municipal Electric Consumer Advocate under the structure established by P.A. 17-73.
- **BOARD OF DIRECTOR MEETINGS**: Attended regular meetings held on November 15, 2018 and December 20, 2018 in Norwich, CT in person, and special and emergency meetings of the Board on November 20, 2018 and December 6, 2018 by phone. Raised questions and comments re: ratepayer interests as appropriate, including suggestion that the three issues, from my perspective, with which ratepayers are primarily concerned are price, reliability and accountability. Followed up on issues raised during meetings with CMEEC General Counsel and staff.

- **BOARD COMMITTEE MEETINGS**: Attended multiple committee and/or subcommittee meetings including: two hour budget meeting on October 12, 2018; several meeting of the Legislative Committee (November 30, 2018 and December 5, 2018); the Audit Committee (November 29, 2018); and the Special Investigation Committee, (November 30, 2018 and December 5, 2018), as referenced above.
- **RATEPAYER COMMUNICATIONS**: Multiple communications via phone and email, re: issues including the Federal indictments, related potential CMEEC litigation expenses, and the forensic audit.
- **OUTREACH TO MUNICIPAL LEADERS**: Provided third quarterly report to municipal heads as required by statute.
- **MISCELLANEOUS LEGAL RESEARCH**: Researched several legal issues as indicated above, including discussion with State FOIC staff.