

# Office of Consumer Counsel



## *At a Glance*

**ELIN SWANSON KATZ, Consumer Counsel**

***Established - 1975***

***Statutory authority - Connecticut General Statute §16-2a***

***Central office - Ten Franklin Square, New Britain, CT 06051***

***Number of employees - 11***

***Recurring operating expenses - \$2,378,018***

***Organizational structure – Independent office. Department of Energy and Environmental Protection provides administrative support pursuant to Public Act 11-80.***

## **Mission**

***The Office of Consumer Counsel serves as a strong independent voice for Connecticut's public utility and telecommunications consumers through advocacy and customer education.***

## **Statutory Responsibility**

The Office of Consumer Counsel's ("OCC") statutory responsibilities include:

- Advocating for Connecticut's ratepayers in all matters relating to public service companies, electric suppliers, and certified telecommunications providers;
- Participating in any regulatory or judicial proceedings, federal or state, which involve the interests of Connecticut utility ratepayers, or matters affecting utility services provided in Connecticut;

- Representing utility ratepayers as a party to each contested docket before the Public Utilities Regulatory Authority (“PURA”);
- Appealing decisions, orders, or authorizations in any state regulatory proceeding impacting utility ratepayers;
- Addressing issues involving rate increases and ratepayer-funded programs, as well as matters concerning the reliability, maintenance, operations, infrastructure, and quality of service of utility companies, suppliers and providers; and
- Working actively with the Connecticut General Assembly, including the Energy and Technology Committee, in developing utility-related legislation in the best interests of consumers.

In addition to these statutory responsibilities, as of July 1, 2015, the Office of State Broadband (“SBO”) was established within OCC by the General Assembly. SBO is responsible for facilitating the availability of broadband access to every state citizen and increasing access to and adoption of high-speed broadband internet access networks in Connecticut. This is further discussed below.

### **Improvements/Achievements 2016 – 2017**

In Fiscal Year 2016-2017, OCC continued to operate as a fully independent state agency committed to effectively carrying out its statutory mandate. Despite operating with its lowest level of staff in decades, the office continues to work diligently to fulfill its mission. OCC’s specific achievements this Fiscal Year include:

- **Savings to Consumers:** OCC achieved over \$500 million dollars in direct savings to Connecticut ratepayers in the 2016-2017 Fiscal Year through OCC’s advocacy (along with other allies and stakeholders, including fellow state agencies) in dockets before PURA, court decisions, and advocacy in matters before the Federal Energy Regulatory Commission (“FERC”), including the following:
  - a. Approximately \$200 million in annual savings from the Locational Installed Capacity (“LICAP”) settlement involving companies that own large generator plants;
  - b. \$93 million in savings from the United Illuminating (“UI”) rate case for the three-year Rate Plan (2017-2019);
  - c. \$125 million in customer benefits from the negotiated extension to the rate freeze and delay of Eversource/CL&P rate case;
  - d. \$97.5 million in annual savings from the last Eversource/CL&P rate case;

- e. \$30 million in ratepayer benefits resulting from the Frontier acquisition of AT&T;
  - f. \$30 million in rate refunds and a projected \$25 million in electric transmission rate reductions due to FERC return on equity complaints;
  - g. Rate freeze and use of rate credits to fund emergency drought relief expenditures for Aquarion Water Company customers;
  - h. An overearnings and rate freeze settlement providing approximately \$16.5 million in ratepayer benefits to Eversource/Yankee Gas Company customers;
  - i. Negotiated rate freezes and overearning settlements with smaller water companies;
  - j. Continued to receive rate credits, rate freezes and other economic benefits for SCG, CNG and UI customers due to 2015 settlement in Iberdrola/UIIL change of control proceeding; and,
  - k. \$8.2 million in annual savings from the CL&P Storm Cost Recovery docket.
- **Advocacy in PURA Dockets:** OCC was a party in over 500 dockets during Fiscal Year 2016-2017 that were opened or re-opened by PURA. Some key dockets include:
    - a. In Docket No. 16-06-04 (UI Rate Case), OCC's advocacy encouraged PURA to reduce the United Illuminating Company's three-year (2017-2019) rate increase request from \$66 million to \$43 million in 2017, from an incremental \$20 million to \$11.5 million in 2018 and from an additional \$12.2 million down to \$2.9 million in 2019.
    - b. In Docket No. 16-05-26, OCC successfully advocated that PURA implement robust data reporting and objective benchmarks to evaluate and fully consider all consumer implications for Eversource's Full Credit Bureau Reporting (FCBR) Pilot Program. On February 23, 2017, Eversource voluntarily withdrew its FCBR Pilot Program, after which PURA closed Docket No. 16-05-26.
    - c. In Docket No. 14-07-20RE01, OCC's advocacy, including three sets of comprehensive Written Comments, encouraged PURA to develop Draft Connecticut Electric Supplier Marketing Standards (Draft Marketing Standards) with strong consumer protections. PURA released the Draft Marketing Standards in June, 2017, which after further stakeholder input are expected to be finalized in December, 2017.
    - d. In Docket Nos. 14-07-19RE02 and 14-07-19RE03, OCC continued to be involved in considering different implications of the electric bill redesign initiative of Section 1 of Public Act 14-75, *An Act Concerning Electric Customer Consumer Protection*, including expanding some bill redesign features to certain business customers and having the electric distribution companies establish website account summary pages for their electronically billed residential and business customers.

- e. In February, 2017, OCC and the Attorney General's office settled a PURA investigation proceeding focusing on the marketing and enrollment practices of electric retail supplier Palmco Power CT, LLC ("Palmco"), in Docket No. 10-01-24RE01. Through the settlement, Palmco did not admit nor deny any wrongdoing, but agreed to make a voluntary donation and contribution to the State of Connecticut for a sum of \$5 million. In addition, Palmco agreed to voluntarily relinquish its Electric Supplier License and take all steps necessary to transfer all of its remaining Connecticut customers to their respective electric distribution companies' (EDC) standard service within 30 days of the settlement. Palmco may reapply for an Electric Supplier License with PURA, but such approval shall not become effective until the latter of (1) April 16, 2020, or (2) three years following the return of Palmco's last Connecticut customer to EDC standard service. In the event that Palmco elects to reapply for its Electric Supplier License, it must demonstrate to the satisfaction of PURA that it has taken remedial steps to address and eliminate the practices outlined in the Settlement Agreement as well as any other conditions PURA deems appropriate. PURA's Final Decision accepting the settlement was issued in August 2017. OCC's active involvement in PURA's investigation proceeding was part of our continuing effort to protect consumers from unlawful marketing tactics of electric suppliers and to ensure that retail supplier marketing contracts and materials are clear, informative, and accurate, such that customers are empowered to make choices based on objective facts.
- f. In Docket No. 16-04-10, related to reconciliation of expenses and revenues arising from natural gas system expansion, OCC successfully advocated that the gas utilities should not be allowed to recover certain expenses, including expenses that had not been demonstrated to be incremental and thus were already being recovered in rates. OCC's advocacy led to a reduction in expenses for customers in the amount of \$800,000.
- g. OCC is an active participant in the DEEP and PURA Joint Proceeding (Docket No. 17-07-32) initiated pursuant to the Governor's Executive Order 59 directing DEEP and PURA to conduct a resource assessment to determine whether, and if so, how Connecticut should take action to support existing nuclear power facilities, other emissions-free sources of generation, and demand reduction alternatives.
- h. In Docket No. 11-03-07RE01 Single Pole Administrator, OCC continued to lead the advocacy before PURA to develop a statewide utility pole and conduit management process to streamline access by competitors and new advanced technology providers in an equitable platform to help make Connecticut competitive among the states.
- i. In Docket No. 17-02-40, Municipal Gain Declaratory Ruling, OCC petitioned PURA to clarify the statutory rights granted to all 169 municipalities by the

state General Assembly (since 1905) to affordable access to a designated location on all utility poles and in telecom conduit.

- j. In Docket No. 17-02-49, Small Cell jurisdiction and notice to adjoining property owners, the OCC successfully detailed the separate authority of the FCC, PURA, and the CT Siting Council with reference to various new types of cellular infrastructure and services, thereby reducing the number of state superior court challenges that have been opened.

- **Legislative Advocacy:** The Office of Consumer Counsel actively participated in the 2016 legislative session, testifying on numerous utility and telecommunications measures.

- a. In the telecommunications area, OCC successfully advocated against the passage of RB-7011, which would have eliminated the ability of municipalities to use their legally reserved space or “gain” on utility poles for purposes of providing broadband to citizens and businesses.
- b. OCC successfully supported the passage of SB-900, which requires that retail electric suppliers give customers two months to cancel a renewal contract without paying an early termination fee (up from the existing seven days) and requires that retail suppliers only advertise additional renewable content in accordance with a methodology approved by PURA.
- c. OCC continued to advocate for a legislative resolution to the debate over the future of the Millstone Nuclear Power Station, including exploration of mechanisms that might allow Millstone to continue to operate while also leading to lower and more stable electric prices for customers and continued electric reliability. The Legislature ultimately did not act on this issue, but Governor Dannel Malloy promoted further detailed study of options in his Executive Order No. 59. OCC looks forward to participation in the processes being conducted by DEEP in PURA under this Executive Order as described above.

- **Department of Energy and Environmental Protection (DEEP), Bureau of Energy and Technology Policy (BETP) Advocacy, and Energy Procurement Activity**

- a. OCC continued work on collaborative energy procurements with DEEP, including the following:

The OCC assisted in the development and selection process pursuant to Public Act 15-113, an act establishing a Shared Clean Energy Facility Pilot Program (SCEF). This pilot will deliver 6 MW of Shared Clean Energy to consumers in Eversource and United Illuminating territory. The

objectives of the SCEF pilot program were expanding clean energy deployment, increasing access to clean energy for low-to moderate-income customers, optimizing the re-use of sites with limited alternative uses, all while supporting in state economic development and minimizing cost to electric ratepayers.

In June 2017 three projects were selected, two in Eversource territory and one in United Illuminating territory that met the requirements of Public Act 15-113. In Eversource territory the projects selected were CHIP Fund 5 – Riverside Thompson 2.0MW located in Thompson Connecticut and Clean Energy Collective – Bloomfield Board of Education 1.62MW located in Bloomfield Connecticut. In UI territory the one project selected was US Solar Corp. – USS Shelton 1.6MW located in Shelton Connecticut.

- b. In the fall of 2016, OCC completed its work in assisting in the Request for Proposal process led by DEEP/BETP for the procurement of new large-scale and small-scale renewable and energy efficiency resources. The procurement selected bids for over 400 megawatts (“MW”) of large-scale resources (grid-side solar and wind projects over 20 MW), of which 90 megawatts will be located in Connecticut, as well as over 400 MW of small-scale renewable and energy efficiency projects, about 160 MW of which will be located in Connecticut. These bids have been selected by the DEEP/BETP, with the assistance of OCC and others, and are presently the subject of final approval processes at PURA.
- **Federal Advocacy:** OCC continued to be involved in this fiscal year with numerous cases at FERC and in the federal courts. Of note:
    - a. OCC continued to participate in the years-long litigation (FERC Docket #s EL13-33 EL14-86, and EL16-64) involving the investment returns earned by the high-voltage transmission lines by utilities in New England. A federal appeals court recently found errors in the approaches taken by FERC to resolve this issue, which has created a new round of litigation filings.
    - b. OCC was also actively involved in litigating and ultimately settling a dispute at FERC (Docket No.ER16-1023) regarding the recovery of merger-related transaction costs incurred as part of the merger between Northeast Utilities and NStar, with the merged company now referred to as Eversource. The companies claimed entitlement to recovery of approximately \$37.4 million of such costs from New England customers because the merger had allegedly created cost savings and efficiencies well above that amount. OCC and its allies questioned that premise at FERC, and ultimately the case settled for approximately \$27.5 million,

about a \$10 million reduction, of which about 25% or \$2.5 million in savings benefits Connecticut ratepayers.

- c. As to the “bigger picture,” OCC is part of a coalition of New England state agencies that is seeking at FERC (Docket No. EL16-19) to ensure that the annual rate filings by transmission owning utilities (including Eversource and Avangrid/UI) will be understandable and subject to questioning in advance by government parties. The negotiations continue before a FERC Settlement Judge. This is a partial list of the types of items that OCC is involved in at the federal level.

- **Advocacy in Court Cases:** In Fiscal Year 2016-2017, OCC was a party in 4 Administrative Appeals to the Superior Court and 1 appeal to the Connecticut Appellate Court.

Included in these cases was the OCC’s involvement in *Liberty Power Holdings, LLC v. Public Utilities Regulatory Authority* (“*Liberty*”), a Superior Court appeal in which OCC represents electric ratepayer interests as an intervening defendant. In the *Liberty* appeal, OCC argued before the Superior Court that PURA correctly concluded in its Final Decision that the electric supplier Liberty Power Holdings, LLC violated General Statutes § 16-259a when it submitted back-billing rates to Eversource Energy (Eversource) without a payment plan for 294 commercial accounts, with 121 bills actually being generated and issued. OCC also argued that PURA, in the exercise of its broad discretion, appropriately assessed Liberty a civil penalty of \$60,500 for its violations of General Statutes § 16-259a.

Also included in these cases is *PMC Property Group, Inc. v. Public Utilities Regulatory Authority*, in which OCC supported PURA’s ruling that a scheme for tenant billing for the electric usage of the heating and air conditioning system in an apartment building owned by PMC in New Haven constituted electric submetering. The Superior Court upheld this PURA ruling, and rejected the appeal by PMC, based on PURA’s and OCC’s advocacy. PMC has now appealed that Superior Court ruling to the Appellate Court, where it remains pending.

- **State, National and Regional Advocacy in Key Organizations, Committees, and Boards**

The Consumer Counsel and OCC staff serve on numerous state, regional, and federal boards and organizations. They also continue to be in great demand as speakers and participants at national conferences and meetings, regional panels, Connecticut organizations, and other forums. OCC’s participation was extensive, but highlights include:

- a. Consumer Counsel Katz is a statutory member of the Connecticut Energy Efficiency Board and the Commission for Education Technology, and the Water Planning Council Steering Committee, and served on the Water Planning Council Steering Committee, among other state boards.

- b. Consumer Counsel Katz is Vice-President of the National Association of State Utility Consumer Advocates (“NASUCA”). She is also NASUCA’s representative on the Federal Communication Commission’s Federal-State Joint Board on Universal Service. Consumer Counsel Katz also serves as Connecticut Governor Dannel P. Malloy’s designee on the FCC’s Intergovernmental Advisory Commission, for which she serves as Chair. She is on the Advisory Committee for the Critical Consumer Issues Forum, a joint initiative of NARUC, NASUCA, and the Edison Electric Institute.
- c. Consumer Counsel Katz participated in the National Association of Regulatory Utility Commissioners’ (NARUC) 2017 Summer Policy Summit in July 2017, speaking on a panel entitled, “*The Wooden Pole – Your Most High-Tech Infrastructure,*” on July 17, 2017.
- d. Speaking at the prestigious New England Electricity Restructuring Roundtable in Boston, Massachusetts, Consumer Counsel Katz participated in a panel, “*Preserving and Expanding Nuclear Power, and Bringing Off-Shore Wind to New England’s Shores,*” on June 16, 2017.
- e. Consumer Counsel Katz attended the January 2017 NARUC Winter Meeting in Washington, DC, speaking on a panel moderated by Connecticut PURA Vice-Chairman John Betkoski, “*What Regulators Need to Know about Stopping Consumer Utility Scams,*” on February 14, 2017.
- f. On October 17-21, 2016, Consumer Counsel Katz and Principal Attorney Bill Vallee attended the Broadband Communities Economic Development Conference in Minneapolis, Minnesota. At the event, Consumer Counsel Katz was awarded named the 2016 Local Internet Choice State Champion by the Coalition for Local Internet Choice.
- g. On September 20, 2016, Consumer Counsel Elin Swanson Katz presented at the 2016 Women’s Energy Summit. Consumer Counsel Katz presented as part of a panel entitled “*Utility of the Future: Preparing for What Tomorrow Will Look Like Today.*” She spoke about the energy management innovations available to Connecticut consumers, while also examining fundamental issues that remain for consumers such as paying their energy bills on time.

OCC Staff Attorney Lauren Bidra also participated in the 2016 Rising Star Forum at the 2016 Women’s Energy Summit in Chicago.

- h. On June 5, 2017, Consumer Counsel Elin Swanson Katz moderated a panel on “*Changing Leadership, Policies & Direction at the FCC: Issues of Note for Advocates,*” considering the major shift in direction and policy



under leadership at the Federal Communications Commission at the Mid-Year Meeting of NASUCA.

At the same meeting, OCC Staff Attorney Lauren Bidra and OCC Economist John Viglione represented OCC on a panel entitled “*Avoiding Whack-a-Mole: Strategic Consumer Advocacy Against Competitive Supplier Abuses.*” Attorney Bidra discussed the disproportionate impact that predatory supplier marketing practices have on low-income consumers and other vulnerable populations, while Mr. Viglione presented his data analysis of electric supplier pricing.

- i. On June 15<sup>th</sup>, 2017, OCC Associate Rate Specialist Taren O’Connor spoke on a panel entitled “*Perspectives on Cost-Effectiveness for the Future*” at the Northeast Energy Efficiency Partnership (“NEEP”) Regional Evaluation, Measurement and Verification (“EM&V”) Forum. O’Connor discussed cost-effectiveness for next generation energy and the ratepayer advocates perspective on core principles for sound cost-effectiveness, as well as barriers and specifics around crafting cost-effectiveness tests.
- j. OCC’s Taren O’Connor also has continued in her role as Vice-Chairperson on the state’s Low Income Energy Advisory Board (“LIEAB”), which helps in the planning, development and implementation of energy-assistance programs, and low-income weatherization programs and policies.
- k. OCC has continued its leadership on the state’s Energy Efficiency Board (“EEB”), with Taren O’Connor in her continued role as the Board’s Chairperson, serving as Consumer Counsel Katz’s designee. The EEB serves Connecticut ratepayers through the programs it offers that act as a first line of defense against high winter energy prices. The programs service residential consumers, businesses, government agencies, institutions such as schools and hospitals, and Connecticut communities, by educating consumers, offering financial incentives along with technical and installation assistance, and providing energy resources at lower costs. Ms. O’Connor also serves as the Chair of the EEB’s Evaluation Committee and as a member of the Executive, Residential and Consultant Committees.

In addition to contributing to policy decisions on program design and allocation of resources, OCC worked to advise the 2017 Conservation and Load Management (“C&LM”) Plan. OCC continued its advocacy for an appropriate funding level for both program evaluations and performance management incentives (“PMI”) for the utility companies and for an independent and transparent evaluation process.

OCC is pleased to be involved in the efforts through the EEB that have resulted in significant energy, economic, behavioral and environmental benefits to Connecticut. According to the U.S. Department of Energy, the design, installation and manufacture of energy efficiency products and services in Connecticut accounted for nearly 34,000 jobs in 2016. OCC looks forward to working on new initiatives through the EEB in 2017-2018.

- l. Joseph Rosenthal, a Principal Attorney for OCC, continued to be on the Coordinating Committee for the Consumer Liaison Group (“CLG”), a New England-wide entity which hosts public forums on a quarterly basis to consider significant topics affecting electricity consumers, with a particular focus on high-use commercial and industrial customers. Being involved with CLG is part of OCC’s effort to work with stakeholders to try to reduce electricity prices, promote electric reliability, and promote fair and effective electric rate policies.
- m. Consumer Counsel Katz, Dave Thompson, and Joe Rosenthal were the active OCC personnel who were involved with the discussions among regional electric stakeholders called the New England Power Pool (“NEPOOL”). NEPOOL meetings are often attended by nearly 100 representatives of various electric industry participants, including utilities (privately-owned and publicly-owned), power plant owners (renewable, fossil, and nuclear), demand response developers, retail suppliers, heavy industrial users, and parties that serve the public interest (like OCC). OCC is the sole Connecticut agency that is a voting member of NEPOOL, which functions almost as a quasi-legislature, with proposals, votes, coalitions, and the like. The recommendations of NEPOOL stakeholders do not generally bind the grid operator, ISO New England, but more often than not, the views of a clear majority of NEPOOL stakeholders usually hold sway in the region or at FERC.
- n. During this fiscal year, various OCC staff participated in panel discussions of an organization called the Critical Consumer Issues Forum (“CCIF”), of which Consumer Counsel Katz is on the Advisory Committee. The focus of this year’s discussions was on “*Connecting Communities: Smart Cities, Enabling Technologies, and the Grid,*” including how electric infrastructure and electric technology can promote improved transportation systems, the efficient use of power, electric reliability, and environmental sustainability.
- o. On August 31, 2016, Principal Attorney Bill Vallee spoke to and responded to questions from the Branford, CT Rotary Club regarding affordable broadband in that region of the state.

- p. On November 29-30, 2016, OCC Consumer Counsel and Principal Attorney Bill Vallee participated in the Next Century Cities/Google conference in Wash., D.C. to analyze the prospects of the new presidential administration.
- q. OCC Consumer Counsel and Principal Attorney Bill Vallee were invited by Connecticut Innovations to review applications by a dozen state municipalities (or groups of munis) for multiyear grants to Innovation Places, meetings which led to the awarding of millions of dollars for successful applications for advanced planning areas across the state.
- r. Commencing in January 2017, the OCC presented monthly webinars on a wide variety of broadband issues, featuring invited mayors and a national expert, with audience participation.
- s. OCC Consumer Counsel and Principal Attorney Bill Vallee joined with Hartford urban center experts in education to develop a program to increase digital inclusion to all residents, including access to affordable broadband for educational purposes. Meetings were held with the Hartford mayor, at the Hartford Public Library and at various Neighborhood Revitalization Zones (NRZs) over a period of months.
- t. Principal Attorney Bill Vallee is a member of the NTIA State Broadband Leaders Network which is comprised of state broadband leaders from the 56 entities of the U.S. (50 states, 5 possessions and territories, and D.C.), seeking to develop and promote best practices to expand affordable broadband internet access.
- u. On May 30-June 1, 2017, Principal Attorney Bill Vallee met with officials from the U.S. Department of Commerce, National Telecommunications & Information Administration (NTIA) to develop a strategy for continuing the work of the State Broadband Initiative (2009-2015) in supporting states in developing broadband and fiber network solutions.
- v. On May 12, 2017, OCC Consumer Counsel and Principal Attorney Bill Vallee participated in panel discussions at the Annual Member Conference hosted by the Connecticut Education Network (CEN) to help shape a new business plan and corporate strategy in light of diminished state funding.
- w. On April 28-May 4, 2017, Principal Attorney Bill Vallee was a panelist at the Broadband Communities Conference in Dallas, TX, focusing on CT State Legislative challenges and opportunities for improving local affordable broadband internet access.

- x. On April 2-4, 2017, Principal Attorney Bill Vallee attended a conference in NYC at the Practicing Law Institute for discussions with cable industry participants on a wide variety of consumer and broadband issues.
- y. Principal Attorney Bill Vallee is a board member and chair of the Audit Committee of the Connecticut Economic Resource Center (CERC), which works with public utility companies and other state agencies and private corporations to promote the economic well-being of Connecticut.
- z. Principal Attorney Bill Vallee is a board member of the Commission on Educational Technology (CET), the governance board of the Connecticut Education Network and other fiber network infrastructure managed by the state; he is also a member of the CET

- **Working Group Advocacy**

- a. OCC has continued to participate in the Supplier Working Group, which was initiated by PURA in 2011 as a forum to address changes in Connecticut's retail energy market. The Supplier Working Group currently provides a collaborative process for stakeholders to consider current regulatory and legislative supplier issues, and to discuss and implement best practices with regard to the Rate Board.
- b. OCC participated in the Electronic Business Transaction ("EBT") Working Group, which was initiated to develop the processes necessary to exchange data between licensed electric suppliers and the electric distribution companies to implement the residential electric bill redesign initiative of Section 1 of Public Act 14-75, *An Act Concerning Electric Customer Consumer Protection*. The EBT Working Group continues to meet to resolve ongoing issues with regard to the electric bill redesign and other billing concerns.
- c. During this Fiscal Year, OCC participated in a newly-formed Working Group to discuss consumer protection issues in competitive electric markets, including issues with telesales and door-to-door marketing as well as the effect that predatory marketing tactics has on vulnerable populations and the general class of electric ratepayers. The Working Group is comprised of representatives from various Attorney General Offices and state consumer advocate agencies from states which have deregulated energy markets.

## **Information Reported as Required by State Statute**

OCC has complied with all state requirements regarding affirmative action and equal opportunity, most particularly Conn. Gen. Statutes §§46a-70 through 46a-78, and is in compliance with all federal requirements.