STATE OF CONNECTICUT
PUBLIC UTILITIES REGULATORY AUTHORITY

Implementation of Clean Energy Successor Programs	DOCKET NO. 26-06-04
	JULY 31, 2026

BRIEF OF THE ALLCO PARTIES

I. INTRODUCTION AND SUMMARY.

Allco Renewable Energy Limited and its affiliates (the "Allco Parties") respectfully submit this brief in response to the Authority's Notice Requesting Briefs in the above-captioned docket, which implements the clean energy successor programs required by Public Act No. 26-127, *An Act Concerning Renewable Power Generation* (the "Act"). The question addressed here is whether the Act permits the Authority to employ a standard offer framework — that is, an administratively determined, posted tariff rate, set at or below the statutory price cap and open to all eligible projects on a first-come, first-served or other non-price-selection basis — in designing the successor programs, particularly the successors to the Non-Residential Renewable Energy Solutions ("NRES") program (Section 2 of the Act) and the Shared Clean Energy Facility ("SCEF") program (the Community Solar Program, Section 3 of the Act).

The answer is yes. Nothing in the Act requires that compensation rates be set exclusively through price-competitive bidding, and every relevant textual signal confirms that the General Assembly deliberately left the design of the procurement — including the use of a standard offer — to the Authority's expert judgment. Sections 2 and 3 require the Authority to establish a "procurement plan," a "price cap," and tariff terms and conditions; they conspicuously do not use the words "competitive," "bid," or "auction" anywhere. By contrast, when the same Act addresses the existing programs under General Statutes § 16-244z, it speaks expressly of maintaining the "competitiveness" of those procurements — proof that the legislature knew precisely how to mandate price competition when it wished to do so. The Act's ratepayer protections are its price cap and its annual megawatt and budget targets, not any prescribed auction mechanic. And the Act's directive that the Authority "incorporate" specified incentives "into the rate established for any such tariff" presupposes that the Authority — not bidders alone — shapes the rate.

A standard offer framework is also continuous with existing administrative practice under

the predecessor statute, and best serves the Act's evident purposes of broad, equitable, and administratively efficient deployment of distributed energy resources. The Authority should therefore conclude that the Act authorizes the adoption of a standard offer framework for the successor programs.

This brief also addresses two related implementation questions. First, the Act's eighty-five-million-dollar annual budget target must be measured net of the proceeds the EDCs realize from market sales of the energy and renewable energy certificates they purchase — proceeds the Act itself requires to be credited back to ratepayers. Second, to ensure that awarded capacity is actually built — i.e., that attrition is low — the Authority should condition program eligibility on objective project-maturity criteria, including an executed interconnection agreement and possession of all discretionary permits required for construction for non-residential and community solar projects.

II. STATUTORY BACKGROUND

Public Act 26-127, signed by the Governor on June 4, 2026, directs the Authority to initiate proceedings on or before August 1, 2026 to establish successor programs to the Residential Renewable Energy Solutions ("RRES") program (§ 1), the NRES program (§ 2), and the SCEF program (§ 3), with final orders due on or before December 1, 2027 and successor tariffs to be offered beginning January 1, 2028. Each successor tariff may have a term of up to twenty years, and the electric distribution companies ("EDCs") must continue offering the tariffs through December 31, 2035.

For the residential successor, Section 1(b) directs that the Authority itself "shall establish (1) tariffs for each electric distribution company, (2) a rate for such tariffs, and (3) tariff terms and conditions" — a purely administrative rate-setting model.

For the non-residential successor, Section 2(a) provides:

> In establishing such successor program, the authority shall establish (1) a procurement plan for the electric distribution companies and resulting tariffs for selected projects pursuant to subsection (b) of this section, (2) a price cap on a cents-per-kilowatt-hour basis concerning any distributed energy resource selected pursuant to this section, and (3) tariff terms and conditions consistent with the requirements of this section. Any such tariff shall be for a term not to exceed twenty years. The rate for such tariffs shall be established by the solicitation pursuant to subsection (b) of this section.

Section 2(b)(1) in turn provides that, on and after January 1, 2028, "not less than annually,

each electric distribution company shall jointly or individually solicit and file with the Public Utilities Regulatory Authority for its approval one or more projects selected resulting from any procurement issued pursuant to this section that are consistent with the tariffs approved by the authority pursuant to subsection (a) of this section." Section 3 establishes the Community Solar Program on materially identical terms: a procurement plan, a price cap, tariff terms and conditions, and rates "established by the solicitation."

Section 2(d) directs that, "[f]or any tariff established pursuant to this section, the authority shall examine, and incorporate, at the authority's discretion," enumerated incentives "into the rate established for any such tariff," including incentives for energy storage, locational benefits, preferences for projects in distressed municipalities and on brownfields, and incentives for solar canopies. The same subsection directs that "[t]he authority shall set the price cap based on the electric system benefits received by all ratepayers from the distributed energy resource, equitable distribution of participant benefits," and the State's energy planning documents.

Finally, Section 4 sets the Act's cost-containment architecture: an aggregate procurement target of one hundred eighty megawatts per year across the three successor programs, and an aggregate annual budget of eighty-five million dollars, with the budgetary target taking precedence if the two cannot be reconciled. Section 5 amends the existing § 16-244z programs, providing among other things that "[t]he authority shall monitor the competitiveness of any procurements authorized pursuant to subsection (a) of this section and may adjust the annual purchase amount established in this subsection or other procurement parameters to maintain competitiveness."

III. ARGUMENT

A. The Plain Text of the Act Authorizes a Standard Offer Framework.

Statutory interpretation begins, and where the text is plain ends, with the language of the statute itself. Conn. Gen. Stat. §1-2z. Sections 2 and 3 of the Act direct the Authority to establish a "procurement plan," a "price cap," and "tariff terms and conditions." Not one of those terms requires — or even mentions — competitive bidding. The words "competitive," "bid," and "auction" appear nowhere in Sections 1 through 4 of the Act. What the statute requires is a *procurement* — an organized process by which the EDCs obtain energy and renewable energy certificates from eligible projects — designed by the Authority through a plan of the Authority's own making.

A standard offer is a procurement. In ordinary meaning, to "solicit" is to ask, request, or invite; a "solicitation" is any invitation to submit offers or applications, and the term is routinely used in procurement practice to describe instruments that do not involve price bidding at all, including enrollment windows at posted prices. Section 2(b) requires the EDCs to "solicit . . . one or more projects" — the object of the solicitation is *projects*, not prices. An annual open solicitation in which the EDCs invite all eligible projects to subscribe to a PURA-approved tariff at a posted standard offer rate, with selection by queue order, lottery, or non-price criteria where oversubscribed, is fully and naturally a "solicitation" of "projects" "resulting from" a "procurement issued pursuant to" the Act.

Nor does the sentence "[t]he rate for such tariffs shall be established by the solicitation pursuant to subsection (b) of this section" require a different conclusion. That sentence addresses *where* the rate is memorialized — in the solicitation process, rather than fixed uniformly in the program-establishment order itself, as under Section 1 — not *how* the price level must be generated. A solicitation conducted at a posted standard offer rate "establishes" the rate "by the solicitation" in the most literal sense: the solicitation documents state the rate at which the EDCs will purchase, and projects accept it by subscribing. Nothing in the text makes price the bid variable or prohibits the Authority from directing that the solicitation be conducted at an administratively determined rate at or below the price cap.

Any residual doubt is resolved by Section 2(d), which directs that the Authority "shall examine, and incorporate, at the authority's discretion," storage incentives, locational incentives, distressed-municipality and brownfield preferences, and solar canopy incentives "*into the rate established for any such tariff*." That directive is incoherent if bids alone fix the rate: one cannot administratively incorporate enumerated policy adders into a rate that only the market may set. Section 2(d) thus presupposes that the Authority shapes the tariff rate itself. It is a basic tenet of statutory construction that the legislature does not enact meaningless provisions, and a reading of Section 2 that reduces subsection (d) to surplusage must be rejected. *See Lopa v. Brinker Int'l, Inc.*, 296 Conn. 426, 433 (2010).

B. The Legislature Used Express Competition Language Elsewhere in the Same Act — and Omitted It from Sections 2 and 3.

Where the General Assembly intends to require or protect price competition, it says so. In

Section 5 of this very Act, amending § 16-244z, the legislature directed that "[t]he authority shall monitor the *competitiveness* of any procurements authorized pursuant to subsection (a) of this section and may adjust the annual purchase amount . . . or other procurement parameters to maintain *competitiveness*." No comparable language appears in Sections 2 or 3 governing the successor programs. The omission of a provision present in a closely related statute — indeed, in an adjacent section of the same enactment — is significant evidence of a different legislative intention. See *Plourde v. Liburdi*, 207 Conn. 412, 416 (1988). Had the legislature intended to confine the successor programs to price-competitive auctions, it had the template at hand and did not use it.

The internal architecture of the Act confirms the point. Section 1 (residential) shows that the legislature knew how to require a single administratively fixed rate; Section 5 shows that it knew how to speak of competitive procurement. Section 2 occupies the deliberate middle ground: the rate emerges from a procurement process whose design — the "procurement plan" — is committed to the Authority. That design choice delegates the method, and a standard offer is among the methods the Authority may lawfully choose.

C. The Act's Ratepayer Protections Are the Price Cap and the Annual Targets — Administrative, Value-Based Mechanisms — Not a Prescribed Auction.

The Act protects ratepayers through (1) a price cap that the Authority "shall set . . . based on the electric system benefits received by all ratepayers from the distributed energy resource, equitable distribution of participant benefits," and the State's planning documents (§ 2(d)); (2) an annual aggregate procurement target of 180 MW (§ 4(a)(1)); and (3) an annual aggregate budget of $85 million that takes precedence over the megawatt target in the event of conflict (§ 4(a)(2)). These are administrative, value-based cost controls. The price cap, in particular, is itself an administratively determined, benefits-based price — a determination indistinguishable in kind from setting a standard offer rate. It would be anomalous to read a statute that requires the Authority to make a value-of-DER price determination in every case as simultaneously forbidding the Authority from giving that determination operative effect as a posted rate.

A standard offer set at or below the cap, cleared against the annual megawatt and budget targets, honors every cost-containment command in the Act. Conversely, nothing in Section 4 assumes bidding: the targets operate identically whether projects are selected by auction or by open

enrollment at a posted rate.

D. A Standard Offer Framework Is Continuous with Established Administrative Practice Under the Predecessor Statute.

The successor programs do not write on a blank slate. Under § 16-244z — which likewise directs the EDCs to "solicit" tariffs and projects — the Authority's existing NRES program has, since its inception in Docket No. 20-07-01, operated a two-track design: annual competitive solicitations for larger projects, and a *non-competitive, first-come, first-served track at fixed, Authority-approved rates* for small projects (up to 200 kW), with lottery selection when oversubscribed. That standard offer track has coexisted with the statute's solicitation language for four program years without legislative correction. When the General Assembly enacted the successor provisions in materially similar — indeed, more flexible — terms, it is presumed to have been aware of the Authority's construction and practice, and its choice not to disturb that practice is persuasive evidence of acquiescence. See *Hansen v. Gordon*, 221 Conn. 29, 36 (1992).

E. A Standard Offer Framework Serves the Act's Purposes.

The Act's evident purposes — twenty-year standardized tariffs, participation by low-income customers and distressed municipalities, preferences for brownfields and solar canopies, storage pairing, and steady annual deployment through 2035 — are best served by a compensation framework that is predictable, transparent, and inexpensive to administer. Standard offer rates lower transaction costs for precisely the smaller, community-scale, and public-sector projects the Act singles out for solicitude; they provide the revenue certainty that enables financing of twenty-year assets; and they eliminate the gaming, attrition, and undersubscription risks that have attended bid-based programs. The enumerated adders in Sections 2(d) and 3(d) — storage, location, distressed municipalities, brownfields, canopies — operate naturally as increments to a posted standard rate. The Authority retains every tool it needs to protect ratepayers: it sets the cap, it sets (or caps) the standard rate below it, and the annual megawatt and budget targets bound the total program cost by law.

F. The Annual Budget Target Must Be Measured Net of the Proceeds of the EDCs' Market Sales of Energy and RECs.

Section 4(a)(2) caps annual program cost at "an aggregated total of eighty-five million dollars per year . . . accounting for the compensation for energy, renewable energy certificates,

energy products or any combination thereof received by a participant." The question is what counts against that budget: the gross payments made to participants, or the net cost of the programs after the EDCs resell the purchased energy and renewable energy certificates into the wholesale and REC markets. The Act compels the latter, net-cost reading.

First, the Act's own cost-recovery architecture defines the ratepayer impact of these programs as a net figure. Sections 1(f), 2(f) and 3(e) each provide that program costs shall be recovered through a nonbypassable fully reconciling rate component and that "[a]ny *net revenues* from the sale of products purchased in accordance with any tariff offered pursuant to this section shall be credited to customers through the same fully reconciling rate component." What ratepayers actually bear, by legislative command, is the difference between payments to participants and the market value the EDCs recover on resale. A budget target whose evident purpose is to cap the burden of these programs on ratepayers must be measured by the burden the Act actually imposes on ratepayers — the net figure — not by a gross number no ratepayer ever pays.

Second, the Act's reporting provision confirms the point. Section 4(h)(2) describes the capped quantity as "the total annual budget spend, accounting for the entire *incentive* for energy, renewable energy certificates, energy products or any combination thereof received by the participant." An "incentive" is the above-market component of compensation — the subsidy — not the gross payment; a purchaser does not "incentivize" a seller by paying market value for what it receives. Read together, § 4(a)(2) and § 4(h)(2) identify *whose* receipts count (participants', in whatever product form, including subscriber bill credits under Section 3) and cap the *incentive cost* of those receipts — the net-of-market-proceeds amount.

Third, gross accounting would produce consequences the legislature cannot have intended. Because the budgetary target takes precedence over the 180 MW target when the two "cannot be reconciled" (§ 4(a)), counting gross payments would systematically suppress deployment below the megawatt target even in years when the actual net bill impact was well under eighty-five million dollars. It would also make program capacity swing with wholesale market prices rather than with actual subsidy cost, and would charge two projects with identical ratepayer impacts different amounts of "budget" depending on prevailing market conditions. The netting reading avoids these anomalies, gives effect to every provision of the Act, and measures the cap by the same yardstick the Act uses to bill ratepayers.

G. The Authority Should Adopt Objective Project-Maturity Criteria So That Attrition Is Low.

The Act's annual megawatt and budget targets, and its December 31, 2035 horizon, make attrition — capacity awarded to projects that are never built — the principal threat to program performance. Every megawatt awarded to a project that later withdraws is a megawatt of the annual target that produces no energy, no renewable energy certificates, and no ratepayer or participant benefit, while crowding out mature projects that would have built. The Authority has ample authority to address this: Sections 2(a)(3) and 3(a)(3) direct it to establish "tariff terms and conditions," Sections 2(b) and 3(c) make every EDC selection subject to the Authority's approval, and Section 4(g) directs the Authority to monitor "the utilization and effectiveness" of the procurements. Eligibility criteria that ensure only mature, buildable projects enter the program are core "terms and conditions" in furtherance of utilization.

The Allco Parties recommend that, for the non-residential successor program and the Community Solar Program, eligibility to execute a tariff be conditioned on objective evidence of project maturity, including: (1) an *executed interconnection agreement* with the interconnecting EDC — not merely a pending application — so that interconnection feasibility, scope and cost are fixed and known before capacity is committed; (2) possession of *all discretionary permits and approvals required for construction* — including local zoning and special permits, inland wetlands approvals, and any required Connecticut Siting Council approval or declaratory ruling — such that only ministerial permits, such as building and electrical permits, remain outstanding; (3) demonstrated site control by deed, lease, easement, or enforceable option; (4) a reasonable performance assurance, forfeited upon withdrawal; and (5) a commercial operation deadline, with extensions policy similar to what is currently in place for the SCEF and NRES program and with withdrawn or expired capacity promptly re-offered — consistent with the roll-over principle the Act applies to unallocated megawatts in the existing programs (§ 5).

Interconnection and discretionary permitting are, by a wide margin, the two largest sources of project failure and delay; a project that has cleared both is overwhelmingly likely to be built. Conditioning awards on these milestones therefore drives the attrition rate toward zero, keeps the annual targets fully productive, and simplifies the Authority's annual reallocation exercise under Section 4(d). These criteria also answer the principal objection leveled against standard offer designs — that posted rates invite speculative, immature enrollment. Attrition is a function of

project maturity screening, not of the rate-setting mechanism; a standard offer limited to projects with executed interconnection agreements and completed discretionary permitting will exhibit lower attrition than a price-competitive auction open to early-stage projects, because underbidding by immature projects — a documented failure mode of auction programs — is eliminated at the threshold.

IV. CONCLUSION

For the foregoing reasons, the Authority should conclude that: (1) Public Act 26-127 authorizes the use of a standard offer framework — administratively determined, posted tariff rates at or below the statutory price cap, open to all eligible projects within the annual megawatt and budget targets — and should adopt such a framework for the successor programs established under Sections 2 and 3 of the Act; (2) the eighty-five-million-dollar annual budget target in Section 4(a)(2) is to be measured net of the proceeds of the EDCs' market sales of the energy, renewable energy certificates and other energy products purchased under the successor tariffs, consistent with the Act's requirement that such net revenues be credited to ratepayers; and (3) eligibility for the non-residential and community solar successor programs should be conditioned on objective project-maturity criteria — including an executed interconnection agreement and possession of all discretionary permits required for construction — so that the attrition rate is low and the Act's annual targets remain fully productive.

Respectfully submitted,

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CERTIFICATE OF SERVICE. I hereby certify that on this date a copy of the foregoing was sent to the service list in compliance with R.C.S.A. §16-1-15.

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