

Regulations of Connecticut State Agencies

TITLE 16. Public Service companies

Agency

Department of Public Utility Control

Subject

Code of Conduct For Electric Distribution Companies

Inclusive Sections

§§ 16-244h-1—16-244h-7

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Code of Conduct For Electric Distribution Companies

Sec. 16-244h-1. Definitions

As used in Section 16-244h-1 to Section 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Customer” means any person, as defined in Section 16-1 of the Connecticut General Statutes, that is the ultimate consumer of electric generation services, electric transmission services or electric distribution services, and any municipality that purchases electric generation services, electric transmission services or electric distribution services from an electric distribution company for its own end use;

(2) “Customer Information” means customer-specific information which the electric distribution company or its predecessor electric company acquired or developed in the course of providing electric distribution services and includes, but is not limited to, information that relates to the quantity, time of use, type and destination of electric service, information contained in electric service bills and other data specific to an electric distribution company customer;

(3) “Department” means the department of public utility control or its succeeding state regulatory body;

(4) “Electric distribution company” means “electric distribution company” as defined in section 16-1 of the Connecticut General Statutes;

(5) “Electric supplier” means “electric supplier” as defined in section 16-1 of the Connecticut General Statutes;

(6) “Embedded Cost” means the direct cost of goods or services plus all applicable indirect charges and overheads;

(7) “FERC” means the Federal Energy Regulatory Commission;

(8) “Generation entity or affiliate” means “generation entity or affiliate” as defined in section 16-1 of the Connecticut General Statutes; and

(9) “Municipality” means any town, city, or borough, or other political subdivision of the state.

(Adopted effective July 1, 1999)

Sec. 16-244h-2. Applicability

(a) Sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies shall apply to electric distribution companies subject to regulation by the department, their generation entities or affiliates, and all electric distribution company interactions with generation entities or affiliates. Sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies shall not apply to any department-regulated subsidiary of an electric distribution company, the revenues and expenses of which are subject to regulation by the department and are included by the department in establishing rates for the electric distribution company. However, sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies shall apply to all interactions any regulated subsidiary has with other generation entities or affiliates covered

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by those sections.

(b) Nothing in sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies shall prohibit communications between an electric distribution company and its generation entities or affiliates necessary to:

(1) Provide standard offer service pursuant to section 16-244c of the Connecticut General Statutes;

(2) Restore service or to prevent or respond to emergency conditions;

(3) Provide electric generation services to any customer who does not or is unable to arrange for or maintain electric generation services with an electric supplier; or

(4) Provide electric generation services to any customer who has entered into a service contract with an electric supplier that fails to provide electric generation services for reasons other than the customer's failure to pay for such services.

(c) An electric distribution company shall not utilize communications necessary under subsection (b) of this section to circumvent sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective July 1, 1999)

Sec. 16-244h-3. Nondiscrimination

(a) **No Preferential Treatment Regarding Services Provided by the Electric Distribution Company:** Unless otherwise authorized by the department or the FERC, or permitted by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies, an electric distribution company shall not:

(1) Provide its generation entities or affiliates, or customers of its generation entities or affiliates, any preference (including but not limited to terms and conditions, pricing, or timing) over unaffiliated electric suppliers or their customers in the provision of services provided by the electric distribution company, or allow an employee, officer, director or agent of a generating entity or affiliate preferential access to information concerning the electric distribution company's customers or distribution system that is not available on an equivalent basis to unaffiliated electric suppliers; or

(2) Allow an employee, officer, director or agent of a generating entity or affiliate to conduct distribution system operations or have access to system control centers or similar facilities used by distribution operations in any way that differs from the access available to employees of unaffiliated electric suppliers.

(b) **Affiliate Transactions:**

(1) Pricing, terms and conditions: Except joint purchases and corporate support services permitted in sections 16-244h-5(e) and 16-244h-5(f), transactions between an electric distribution company and its generation entities or affiliates shall be limited to:

(A) Products and services offered by tariff; and

(B) Goods, property, products or services sold by the electric distribution company to its generation entities or affiliates and made available to all electric suppliers under the same terms and conditions. Such goods, property, products or services shall be priced pursuant

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to the provisions of section 16-244h-5(i) of the Regulations of Connecticut State Agencies. An electric distribution company shall post information concerning non-tariffed transactions with its generation entities or affiliates on its affiliate discount internet web page in accordance with subsection (f) of this section.

(2) **Provision of Transmission Services, Distribution Services or Information:** An electric distribution company shall provide all electric suppliers access to its transmission and distribution facilities in a nondiscriminatory manner. If an electric distribution company offers supply, capacity, services or information to its generation entities or affiliates, it shall contemporaneously make the offering available to all electric suppliers, except that communications referenced in section 16-244h-2(b) of the Regulations of Connecticut State Agencies need not be made contemporaneously available. All information concerning an electric distribution company's customers, the distribution system or other market information that is provided to a generation entity or affiliate through nonpublic communications, including communications referenced in section 16-244h-2(b) of the Regulations of Connecticut State Agencies, shall be provided to all electric suppliers in a nondiscriminatory manner and on the same terms and conditions.

(3) **Offering of Discounts:** If an electric distribution company offers a discount or waives all or any part of any other charge or fee to its generation entities or affiliates, or offers a discount or waiver for a transaction in which its generation entities or affiliates are involved, the electric distribution company shall contemporaneously make such discount or waiver available to all electric suppliers serving the same market. An electric distribution company shall not create a unique discount arrangement with its generation entities or affiliates such that no competitor could be considered as serving the same market. All electric suppliers serving the same market as the generation entities or affiliates shall be offered the same discount as the discount received by the generation entities or affiliates. An electric distribution company shall document the cost differential underlying the discount to its generation entities or affiliates in the affiliate discount report described in subsection (f) of this section.

(4) **Tariff Discretion:** If a tariff provision allows for discretion in its application, an electric distribution company and its employees shall apply that tariff provision in the same manner to its generation entities or affiliates and all other electric suppliers and their respective customers.

(5) **No Tariff Discretion:** If an electric distribution company has no discretion in the application of a tariff provision, the electric distribution company and its employees shall strictly enforce that tariff provision.

(6) **Processing Requests for Services Provided by the Electric Distribution Company:** An electric distribution company shall process requests for similar services provided by the electric distribution company in the same manner and within the same time for its generation entities or affiliates and for all other electric suppliers and their respective customers, and shall not give preference of any kind to its generation entities or affiliates or their customers.

(c) **Tying of Services Provided by an Electric Distribution Company Prohibited:** An

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electric distribution company shall not condition or otherwise tie the provision of any services provided by the electric distribution company, nor the availability of discounts of rates or other charges or fees, rebates, or waivers of terms and conditions of any services provided by the electric distribution company, to the purchasing of any goods or services from its generation entities or affiliates.

(d) **No Assignment of Customers:** An electric distribution company shall not assign customers to which it provides services to any of its generation entities or affiliates, whether by default, direct assignment, option or by any other means, unless that means is equally available to all competitors and approved by the department.

(e) **Business Development and Customer Relations:** Except as otherwise provided by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies, an electric distribution company shall not:

- (1) Solicit business on behalf of its generation entities or affiliates;
- (2) Acquire information on behalf of, or to provide to, its generation entities or affiliates;
- (3) Request authorization from its customers to pass on customer information exclusively to its generation entities or affiliates;
- (4) Give the appearance that the electric distribution company speaks on behalf of or represents its generation entities or affiliates or that the customer will receive preferential treatment as a consequence of conducting business with the generation entities or affiliates;
- (5) Give any appearance that the generation entities or affiliates speak on behalf of or represent the electric distribution company; or
- (6) Provide referrals to its generation entities or affiliates.

(f) **Affiliate Discount Reports:**

(1) Each electric distribution company shall maintain a list of any discount, rebate or other waiver of any charge, fee, term or condition associated with services provided by the electric distribution company to its generation entities or affiliates on an internet web page directly and conspicuously linked to its home page. If an electric distribution company provides its generation entities or affiliates a discount, rebate, or other waiver of any charge or fee associated with services provided by the electric distribution company, the electric distribution company shall, within 24 hours of the time at which the service provided by the electric distribution company is so provided, post either directly on the discount page or on a page directly linked to the discount page a notice providing the following information:

- (A) The name of the generation entities or affiliate involved in the transaction;
- (B) The generation entity or affiliate's role in the transaction (i.e., aggregator, electric supplier, marketer);
- (C) The rate charged;
- (D) The maximum rate;
- (E) The time period for which the discount or waiver applies;
- (F) The quantities involved in the transaction;
- (G) The delivery points involved in the transaction;

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(H) Any conditions or requirements applicable to the discount or waiver, and a documentation of the cost differential underlying the discount as required in subdivision (3) of subsection (b) of this section; and

(I) Procedures by which an unaffiliated entity may request a comparable offer.

(2) The affiliate discount page and associated pages shall provide the following disclaimer: “This page is intended to provide notice to all electric suppliers of any discount provided by an electric distribution company to its own electric supplier affiliate so that all electric suppliers may avail themselves of any such discount. It is not intended to indicate that an electric distribution company’s electric supplier affiliate has preferential access to services.”

(3) An electric distribution company shall maintain all records associated with transactions to which subdivision (1) of this subsection applies in accordance with the provisions of section 16-244h-4(f) of the Regulations of Connecticut State Agencies.

(Adopted effective July 1, 1999)

Sec. 16-244h-4. Disclosure and information

(a) Customer-Specific Information:

(1) Unless the electric distribution company has received a form from a customer requesting that the customer’s name, address, telephone number and rate class not be released, the electric distribution company may release such information to its generation entities or affiliates without customer consent, so long as such information is released only on a strictly non-discriminatory basis pursuant to the provisions of section 16-245o(d) of the Connecticut General Statutes. Customer consent is not required for an electric distribution company to provide load data concerning existing customers of its generation entities or affiliates necessary for customer billing and load reporting to the regional independent system operator, as that term is defined in section 16-1 of the Connecticut General Statutes.

(2) An electric distribution company shall receive prior affirmative written customer consent before releasing any customer information not referenced in subdivision (1) of this subsection. If an electric distribution company releases customer specific information not referenced in subdivision (1) of this subsection to its generation entity or affiliate, it shall make similar customer specific information available to other electric suppliers on a strictly non-discriminatory basis and on the same terms and conditions.

(3) If an electric distribution company releases customer information to its generation entities or affiliates for which no tariff or standard fee applies, within 24 hours of the time at which an electric distribution company releases such customer information, the electric distribution company shall post, either directly on or directly linked to the discount page required pursuant to section 16-244h-3(f) of the Regulations of Connecticut State Agencies, a notice providing the terms and conditions of such release of information. The notice shall include, but is not limited to:

(A) The name of the generation entity or affiliate receiving the information;

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- (B) The number of names provided;
- (C) The type of information provided (e.g., customer specific load profiles);
- (D) The price charged to the generation entity or affiliate; and
- (E) The electronic form in which the information was provided.

(b) **Non-Customer Specific Non-Public Information:** An electric distribution company shall make non-customer specific non-public information, including but not limited to information about an electric distribution company's electricity purchases, sales, or operations or about its electricity-related goods or services, available to its generating entities or affiliates only if the electric distribution company makes that information contemporaneously available to all other service providers on the same terms and conditions, and keeps the information open to public inspection. Unless otherwise provided by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies, an electric distribution company continues to be bound by all department-adopted pricing and reporting guidelines for such transactions. Electric distribution companies are also permitted to exchange proprietary information on an exclusive basis with their generation entities or affiliates, provided the exchange of such proprietary information is necessary in the provision of corporate support services permitted by section 16-244h-5(f) of the Regulations of Connecticut State Agencies and the electric distribution company follows all department-adopted pricing and reporting guidelines for such transactions. The generating entity or affiliate's use of such proprietary information is limited to use in conjunction with the permitted corporate support services, and is not permitted for any other use.

(c) **Affiliate-Related Advice or Assistance:** Except as otherwise provided in sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies, an electric distribution company shall not provide customers advice or assistance with regard to its generation entities or affiliates or other electric suppliers, and shall not refer customers to its generation entities or affiliates.

(d) **Electric Supplier Lists:**

(1) Except upon request by a customer or as otherwise authorized by the department, an electric distribution company shall not provide its customers with any list of electric suppliers, which includes or identifies the generation entities or affiliates, regardless of whether such list also includes or identifies the names of unaffiliated entities.

(2) If a customer requests information about any electric supplier, the electric distribution company shall provide the list of electric suppliers maintained by the department pursuant to section 16-245p of the Connecticut General Statutes.

(e) **Electric Supplier Information:** An electric distribution company shall not provide non-public information and data which has been received from unaffiliated electric suppliers to its generation entities or affiliates.

(f) **Record-Keeping:** An electric distribution company shall maintain contemporaneous records documenting all tariffed and nontariffed transactions with its generation entities or affiliates, including but not limited to, all waivers of tariff or contract provisions and all discounts. The records shall reflect, at a minimum, the name of the other party to the

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transaction, a description of the transaction, the time period over which the transaction applies, and the terms and conditions of the transaction. An electric distribution company shall maintain such records for a minimum of three years and longer if the department or another government agency so requires. The electric distribution company shall make such records available for review by the department or an electric supplier upon 72 hours' notice, or at a time mutually agreeable to the electric distribution company and the department or electric supplier. All records maintained pursuant to this section shall also conform to FERC regulations where applicable.

(g) **Maintenance of Affiliate Contracts and Related Bids:** An electric distribution company shall maintain a record of all contracts and related bids for the provision of work, products or services to and from the electric distribution company to its generation entities or affiliates for no less than a period of three years, and longer if the department or another government agency so requires.

(Adopted effective July 1, 1999)

Sec. 16-244h-5. Separation

(a) **Corporate Entities:** An electric distribution company and its generation entities or affiliates shall be legally separate corporate entities, except that a generation entity or affiliate to which generation assets are transferred pursuant to section 16-244e(a)(3) of the Connecticut General Statutes may, if required to comply with rules, regulations or licensing requirements of the United States Nuclear Regulatory Commission, be a division that is structurally separate from the electric distribution company.

(b) **Books and Records:** An electric distribution company and its generation entities or affiliates shall keep separate books and records.

(1) Electric distribution company books and records shall be recorded in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting Procedures (GAAP).

(2) The books and records of generation entities or affiliates, including vouchers, memoranda, documents, letters, contracts or other papers, shall be open for examination by the department and its staff with respect to transactions between the holding company and generation entities or affiliates and transactions between the electric distribution company and generation entities or affiliates. In any enforcement proceeding held pursuant to section 16-244h-7 of the Regulations of Connecticut State Agencies, the department may summon and examine under oath such witnesses as it deems advisable, and cause to be produced such books, records, vouchers, memoranda, documents, letters, contracts or other papers as it deems advisable.

(c) **Electric Distribution Company Audit:** No later than July 1, 2000, and every year thereafter, each electric distribution company shall have audits prepared by independent auditors that verify that the electric distribution company is in compliance with sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies. Each electric distribution company shall file this audit with the department beginning no later

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than July 1, 2000. The audits shall be at shareholder expense.

(d) **Sharing of Plant, Facilities, Equipment or Costs:** An electric distribution company shall not share office space, office equipment, services, or systems with its generation entities or affiliates, nor shall an electric distribution company access the computer or information systems of its generation entities or affiliates or allow its generation entities or affiliates to access its computer or information systems, except to the extent appropriate to perform shared corporate support functions permitted under subsection (f) of this section. Physical separation required by this subsection shall, at a minimum, be accomplished preferably by occupying separate floors of an office building, or, in the alternative, distinct wings.

(e) **Joint Purchases:** To the extent not precluded by any other regulation, an electric distribution company and its generation entities or affiliates may make joint purchases of goods and services, but not those associated with the delivery of electric distribution services, electric transmission services or electric generation services, as those terms are defined in Section 16-1 of the Connecticut General Statutes. Examples of permissible joint purchases include joint purchases of general office supplies and telephone services. Examples of joint purchases not permitted include electric purchasing for resale, purchasing of electric transmission, systems operations, and marketing. The electric distribution company shall ensure that all joint purchases are priced, reported, and conducted in a manner that permits clear identification of the electric distribution company and generation entity or affiliate portions of such purchases, and in accordance with applicable department allocation and reporting rules.

(f) **Corporate Support:**

(1) An electric distribution company, its parent holding company, or a separate affiliate created solely to perform corporate support services may share with its generation entities or affiliates joint corporate oversight, governance, support systems and personnel. Any shared corporate support shall be priced, reported and conducted in accordance with the separation and information standards set forth in sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies, as well as other applicable department pricing and reporting requirements.

(2) Such shared corporate support shall not allow or provide a means for the transfer of confidential information such as customer information or noncustomer specific non-public information from the electric distribution company to the affiliate, create the opportunity for preferential treatment or unfair competitive advantage, lead to customer confusion, or create opportunities for cross-subsidization of generation entities or affiliates. In the compliance plan submitted pursuant to section 16-244h-7 of the Regulations of Connecticut State Agencies, a corporate officer from the electric distribution company and holding company shall verify the adequacy of the specific mechanisms and procedures in place to ensure the electric distribution company follows the mandates of this subsection, and to ensure the electric distribution company is not utilizing shared corporate support services as a means to circumvent sections 16-244h-1 to 16-244h-7, inclusive of the Regulations of

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(3) Examples of services that may be shared include, but are not limited to: payroll, taxes, shareholder services, insurance, financial reporting, corporate financial planning and analysis, corporate accounting, corporate security, human resources (compensation, benefits, employment policies), employee records, regulatory affairs, lobbying, legal, and pension management. Examples of services that may not be shared include: employee recruiting, engineering, hedging and financial derivatives and arbitrage services, electric purchasing for resale, purchasing of electric transmission, system operations and marketing.

(g) Corporate Identification and Advertising:

(1) An electric distribution company shall not trade upon, promote, or advertise its generation entity or affiliate's affiliation with the electric distribution company, nor allow the electric distribution company name or logo to be used by the generation entity or affiliate in any advertisement or in any material circulated by the generation entity or affiliate, unless it discloses in plain legible or audible language, on the first page or at the first point where the electric distribution company's name or logo appears that:

(A) The generation entity or affiliate "is not the same company as [i.e. The Connecticut Light and Power Company, The United Illuminating Company], the electric distribution company,"; and

(B) "You do not have to buy [the generation entity or affiliate's] products in order to continue to receive quality regulated services from the electric distribution company."

The application of the name/logo disclaimer is limited to the use of the name or logo in Connecticut. Any written disclaimer shall be in bold print, and shall not utilize a typeface of less than eight points in size. Compensation for ratemaking purposes for the use of the electric distribution company's logo by a generation entity or affiliate shall be determined by the department in any rate case held pursuant to section 16-19 of the Connecticut General Statutes. The electric distribution company shall record any such use of its logo by its generation entity or affiliate.

(2) An electric distribution company, through action or words, shall not represent that, as a result of the generation entity or affiliate's relationship with the electric distribution company, its generation entity or affiliates will receive any different treatment than other service providers.

(3) An electric distribution company shall not offer or provide to any generation entity or affiliate advertising space in electric distribution company billing envelopes or any other form of written electric distribution company customer communication. The appearance of a generation entity or affiliate's name or logo on a customer bill to indicate the customer's choice of electric supplier shall not be considered trading upon or promoting the generation entity or affiliate's affiliation with the electric distribution company under subdivision (1) of this subsection, and shall not be considered joint advertising or joint marketing prohibited in subdivision (4) of this section. An electric distribution company shall offer each electric supplier the ability to display its name or logo or both on the customer bill, to indicate the customer's choice of electric supplier, under the same terms and conditions as those offered

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to the electric distribution company's generation entities or affiliates. The appearance of an electric distribution company's logo on a customer bill to indicate the provider of electric distribution services shall not require the disclaimers listed in subdivision (1) of this section.

(4) An electric distribution company shall not participate in joint advertising or joint marketing with its generation entities or affiliates. This prohibition against joint advertising or joint marketing includes, but is not limited to the following:

(A) An electric distribution company shall not participate with its generation entities or affiliates through joint sales calls, through joint call centers or otherwise, or through joint proposals (including responses to requests for proposals) to existing or potential customers. This subparagraph does not prohibit an electric distribution company from participating, on a nondiscriminatory basis, in non-sales meetings with its generation entities or affiliates or any other electric supplier to discuss technical or operational subjects regarding the electric distribution company's provision of transportation service to the customer. An electric distribution company shall maintain a record of all such meetings that shall include, but is not limited to, the customer's name and customer class, the customer's electric supplier at the time of the meeting, the date of the meeting and a general description of the subject matter discussed. The record of meetings shall be open to inspection by the department and its staff consistent with the provisions of section 16-244h-5(b) of the Regulations of Connecticut State Agencies;

(B) Except as otherwise provided for by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies, an electric distribution company shall not participate in any joint activity with its generation entities or affiliates. The term "joint activity" includes, but is not limited to, advertising, sales, marketing, communications and correspondence with any existing or potential customer;

(C) An electric distribution company shall not participate with its generation entities or affiliates in trade shows, conferences, or other information or marketing events.

(5) An electric distribution company shall not share or subsidize costs, fees, or payments with its affiliates associated with research and development activities or investment in advanced technology research.

(h) Employees:

(1) Except as permitted in subsection (f) of this section, an electric distribution company and its generation entities or affiliates shall not jointly employ the same employees. This prohibition against joint employees also applies to board of directors and corporate officers, except that if an electric distribution company and its generation entities or affiliates are controlled by a holding company, any board member or corporate officer may serve on the holding company and with either the electric distribution company or its generation entities or affiliates, but not both. In the case of shared directors and officers, a corporate officer from the electric distribution company and holding company shall verify in the electric distribution company's compliance plan submitted pursuant to section 16-244h-7 of the Regulations of Connecticut State Agencies the adequacy of the specific mechanisms and procedures in place to ensure that the electric distribution company is not utilizing shared

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officers and directors as a means to circumvent sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies.

(2) All employee transfers between an electric distribution company and its generation entities or affiliates shall be consistent with the following provisions:

(A) An electric distribution company shall track and report to the department all employee transfers between the electric distribution company and generation entities or affiliates. The electric distribution company shall report this information to the department no later than July 1, 2000 and annually thereafter.

(B) Once an employee of an electric distribution company becomes an employee of a generation entity or affiliate, the employee shall not return to the electric distribution company for a period of one year. This prohibition is inapplicable if the generation entity or affiliate to which the employee transfers no longer transacts business in this state during the one-year period. In the event that an employee returns to the electric distribution company, such employee shall not be retransferred, reassigned, or otherwise employed by a generation entity or affiliate for a period of two years. An employee that is hired by the generation entity or affiliate and becomes an employee of the electric distribution company shall not be retransferred, reassigned, or otherwise employed by a generation entity or affiliate for a period of two years. Employees transferring from the electric distribution company to a generation entity or affiliate are expressly prohibited from using information gained from the electric distribution company in a discriminatory or exclusive fashion, to the benefit of the generation entity or affiliate or to the detriment of unaffiliated electric suppliers.

(C) Any electric distribution company employee hired by a generation entity or affiliate shall not remove or otherwise provide information to the generation entity or affiliate which the generation entity or affiliate would otherwise be precluded from having pursuant to sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies.

(D) An electric distribution company shall not make temporary or intermittent assignments, or rotations of its employees to its generation entities or affiliates.

(E) A transferring employee shall sign a statement attesting that the employee is aware of and understands the restrictions set forth in sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies and the attendant consequences of violations of those sections.

(i) **Transfer Pricing:** To the extent that sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies do not prohibit transfers of goods and services between an electric distribution company and its generation entities or affiliates, all such transfers shall be subject to the following pricing provisions:

(1) Joint or shared costs allowed in subsections (d), (e), and (f) of this section, including plant, facilities, equipment, corporate support services, overhead and supplies shall be allocated and priced to the electric distribution company and its generation entity or affiliate based on actual embedded costs or as otherwise determined by the department.

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(2) Goods or services which are price regulated by a state or federal agency shall be priced at the tariffed or regulated rate. In cases where more than one state commission regulates the price of goods or services, this department's pricing provisions shall govern.

(3) An electric distribution company shall pay fair market value for all goods and services produced, purchased or developed by its generation entities or affiliates. The electric distribution company's purchasing practices shall be non-discriminatory and shall result in fair prices to its customers. All transfers from a generation entity or affiliate to its electric distribution company shall be posted on the affiliate discount internet web page referenced in section 16-244h-3(f) of the Regulations of Connecticut State Agencies within 24 hours of the time at which the service provided by the generation entity or affiliate is so provided.

(Adopted effective July 1, 1999)

Sec. 16-244h-6. Generation entity or affiliate relationships

No electric distribution company or generation entity or affiliate shall utilize its business relationships with unaffiliated entities to circumvent the provisions or goals of sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective July 1, 1999)

Sec. 16-244h-7. Compliance plan filing requirements

(a) **Compliance Plans:** No later than October 1, 1999, each electric distribution company shall file with the department, for review and approval, a compliance plan demonstrating to the department that there are adequate procedures in place that will preclude the sharing of information with its generation entities or affiliates that is prohibited by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies and further demonstrating that access to its transmission and distribution facilities is provided on a nondiscriminatory basis. The compliance plan shall be in effect from filing but may be modified, as determined by the department. Each electric distribution company shall file a subsequent compliance plan no later than July 1, 2000 and annually thereafter.

(1) In its compliance plan filed pursuant to this subsection, the electric distribution company shall demonstrate both the specific mechanisms and procedures that the electric distribution company and holding company have in place to ensure that the electric distribution company is not utilizing the holding company or any of its affiliates not covered by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies as a means to circumvent any of those sections. Examples include, but are not limited to, specific mechanisms and procedures to assure the department that the electric distribution company will not use the holding company or another electric distribution company affiliate not covered by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies as a means to circumvent the purposes and goals of those sections relating to:

- (A) Access of information;
- (B) Provision of services; or

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(C) Access to or employment of electric distribution company employees.

(2) In the compliance plan, a corporate officer from the electric distribution company and holding company shall certify under penalty of false statement the adequacy of these specific mechanisms and procedures to ensure that the electric distribution company is not utilizing the holding company or any of its affiliates not covered by sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies as a means to circumvent any of those sections.

(b) **New Affiliate Compliance Plans:** Upon the creation of a new generation entity or affiliate to which sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies applies, the electric distribution company shall immediately notify the department of the creation of the new generation entity or affiliate, and shall post a notice on its web page. No later than 60 days after the creation of this generation entity or affiliate, the electric distribution company shall file notification with the department. The notification shall demonstrate how the electric distribution company will implement sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies with respect to the new generation entity or affiliate.

(c) **Enforcement Proceedings.** If the department, upon its own motion or upon receipt of a complaint from any person alleging a violation of sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies by an electric distribution company or any of its generation entities or affiliates, has reason to believe that a violation has occurred, it shall investigate compliance with such sections. The department shall have the power, after notice and opportunity for hearing, and upon a finding that a violation has occurred, to enter any orders as may be in the public interest to enforce such sections, including cease and desist orders and the assessment of civil penalties. However, civil penalties shall only be assessed in accordance with the procedural requirements of section 16-41 of the Connecticut General Statutes.

(d) **Assessment of Civil Penalties.** In assessing civil penalties pursuant to subsection (c), the department shall take into account, in addition to the nature, extent and gravity of the particular violation:

- (1) The electric distribution company's prior history of violations;
- (2) The "good faith" efforts, if any, of the electric distribution company or generation entity or affiliate to comply with sections 16-244h-1 to 16-244h-7, inclusive, of the Regulations of Connecticut State Agencies;
- (3) The nature and degree of economic benefit gained by the electric distribution company or its generation entity or affiliate;
- (4) Deterrence of future violations; and
- (5) Such other factors deemed appropriate and material to the particular circumstances of the violation.

(Adopted effective July 1, 1999)