

REGULATORY AND ADMINISTRATIVE LAW ALERT
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CONNECTICUT PASSES ACT LIMITING USE OF VARIABLE RATES

The Connecticut General Assembly recently passed Public Act 15-90, "An Act Concerning Variable Electric Rates" (the "Act"), and Governor Malloy's approval is expected imminently. The Act affects all Connecticut retail suppliers that either offer variable rate products or use a monthly variable rate product following the end of a fixed price contract if the customer fails to respond to renewal requests.

Section one of the Act amends Conn. Gen. Stat. 16-245o(g) to limit variable electric products, as follows:

On and after October 1, 2015, no electric supplier shall (A) enter into a contract to charge a residential customer a variable rate for electric generation services; or (B) automatically renew or cause to be automatically renewed a contract with a residential customer and, pursuant to such contract, charge such customer a variable rate for electric generation services.

Section two of the Act also requires a new proceeding at the Public Utilities Regulatory Authority ("PURA") to develop "recommendations and guidance" on the following subjects:

- (1) what type of generation services rate structure is best suited for residential customers who allow a fixed contract with an electric supplier to expire and begin paying a month-to-month rate for generation services from such supplier; and
- (2) what rate increase is just and reasonable if a generation services rate increase is necessary after the expiration of a fixed contract and such customer begins paying a month-to-month rate.

KEY OBSERVATIONS REGARDING THE ACT

1. *Residential Only.* The variable rate limitations only apply to residential customers.
2. *Many Existing Contracts are Grandfathered.* The rate limitations apply to (A) new contracts and (B) existing contracts that "automatically renew" to a variable rate product. Thus, existing variable contracts remain in effect until contract end or until any automatic renewal to a variable rate product. The Act should not apply to existing fixed rate contracts that default to a month-to-month variable rate after end of fixed rate period, as should be classified as a continuation of an existing contract rather than as an "automatic renewal" to a new variable contract
3. *The Required PURA Proceeding Involves Important Issues.* Many suppliers favor the longstanding approach of having fixed price contracts default to a month-to-month variable rate. PURA needs to hear about the consumer benefits associated with such arrangements.

4. *The Act Represents a Strong Policy Disfavoring Use of Variable Rates.* Given the hostility to variable rates shown in the Act, suppliers should consider minimizing risk by discontinuing all use of variable rates for Connecticut residential customers as of the Fall 2015 effective date.

CONTACT

If you have any questions about this alert, please contact the author, [Robert J. Munnelly, Jr.](#), or a member of our [Regulatory and Administrative Law Practice](#).

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