



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

DOCKET NO. 00-01-11RE02 **JOINT APPLICATION OF CONSOLIDATED EDISON,
INC. AND NORTHEAST UTILITIES FOR APPROVAL
OF A CHANGE OF CONTROL - COMPLIANCE ISSUES**

January 30, 2002

By the following Commissioners:

Donald W. Downes
Glenn Arthur
Jack R. Goldberg
Linda J. Kelly
John W. Betkoski, III

DECISION

I. BACKGROUND OF PROCEEDING

In its Decisions dated October 19, 2000 and November 22, 2000 in Docket No. 00-01-11, Joint Application of Consolidated Edison, Inc. and Northeast Utilities for Approval of a Change of Control, the Department of Public Utility Control (Department) approved, with conditions, a proposed merger between Northeast Utilities (NU) and Consolidated Edison, Inc. (CEI). On March 6, 2001, CEI filed suit in the United States District Court for the Southern District of New York against NU, seeking a declaratory judgment that NU had breached the Merger Agreement between NU and CEI, and asking to be relieved of CEI's obligations under the Merger Agreement. On March 12, 2001, NU filed suit in the same court against CEI for breach of the Merger Agreement.

On March 14, 2001, the Department received a letter from Northeast Utilities stating that it does not believe that the merger will be consummated, and that the

various conditions and orders imposed by the Department in its merger approval should have no continuing effect. On March 26, 2001, the Department reopened this docket for the limited purpose of examining order compliance associated with the Department's merger approval, and held all orders associated with the merger approval in abeyance during such examination.

II. CONDUCT OF THE PROCEEDING

The Department issued a Notice of Request for Written Comments on December 12, 2001 (Notice), seeking comment from parties and intervenors as to whether it should create an order that establishes a date certain by which the merger must be consummated. Under the proposed order, if the merger is not consummated by January 31, 2002, the authority granted to CEI and NU to merge would expire; any further attempt to merge would require an entirely new application.

The Department received comment from NU, CEI, the Office of Consumer Counsel, the Office of the Attorney General of the State of Connecticut and the Utility Workers Union of America, AFL-CIO, Local 1-2. No party or intervenor objected to the establishment of an order that would require the merger to be consummated no later than January 31, 2002 as described in the Notice.

Despite the limited scope of this reopened proceeding, General Statutes of Connecticut (Conn. Gen. Stat.) §§ 4-181a and 16-9 require a hearing. Because the Department believed that the limited issues associated with this reopened proceeding should not necessitate a hearing, it requested that parties in agreement explicitly waive their rights to a hearing. With the exception of CEI, the parties waived their rights to a hearing in this proceeding. In its written comments, however, CEI stated that under the circumstances, it does not believe a hearing in this matter is needed.

III. DEPARTMENT ANALYSIS

Despite the post-merger approval litigation between NU and CEI, the Department's approval of the merger between the two companies is a complete and legally correct final Decision, based upon facts and circumstances existing at the time the approval was issued. Consequently, absent a request from the NU and CEI, the Department has declined to rescind its merger approval. However, it is undesirable for the Department and all parties involved to allow regulatory approval to merge to stand, *ad infinitum*, especially for a merger transaction that is very unlikely to be consummated. Therefore, the Department will establish an order below that terminates the previously granted merger authority on January 31, 2002.

IV. ORDER

1. The authority granted by the Department in its Decisions dated October 19, 2000 and November 22, 2000 to consummate the merger of Northeast Utilities and Consolidated Edison, Inc. shall be exercised not later than January 31, 2002, and shall not be exercised thereafter.

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This Decision is adopted by the following Commissioners:

Donald W. Downes

Glenn Arthur

Jack R. Goldberg

Linda J. Kelly

John W. Betkoski, III

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

January 30, 2002

Date