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## Connecticut Expands Energy Sub-Metering

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Up until very recently, only campgrounds and marinas could sub-meter electricity usage. This meant that landlords were prohibited by law from sub-metering electricity to their tenants. As a result, any allocation of electricity use was limited to imprecise formulas based on factors such as square footage, number of appliances, or the like. Consequently, there was little incentive for tenants to conserve their energy use since it had no financial impact.

That is all about to change. Last year, the Legislature passed Public Act 13-298, which expands sub-metering to:

- commercial, industrial, multifamily residential or multiuse buildings where the electric power or thermal energy is provided by a Class I Renewable Energy Source or a Combined Heat and Power system, or
- in any other location as approved by the Public Utilities Regulatory Authority (“PURA”) where sub-metering promotes the state's energy goals.

On July 14, 2014, PURA issued a Draft Interim Decision proposing new rules for sub-metering where there is no on-site generation. (Rules for sub-metering sites with generation will be issued following further proceedings.) The new rules, if adopted, will provide:

- Sub-metering will be allowed in buildings or campuses that are currently master-metered if it is likely to lead to energy conservation.
- Landlords must apply to PURA to register before they may sub-meter.
- The meters must be utility grade capable of  $\pm 0.5\%$  or  $\pm 0.2\%$  accuracy range depending on the type of meter and must be tested periodically.

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- Sub-meters must be installed in accordance with all applicable codes and standards, including the National Electrical Safety Code, the National Electrical Code, and state and local electric codes.
- All tenants in a single building or complex must be sub-metered or sub-metering will not be approved.
- Landlords may not make a profit on the energy bills. The total monthly utility bills must be allocated among tenants based upon metered usage. The calculation is designed to ensure that sub-metered parties pay for only their usage. The cost of electricity provided to common areas, such as hallways and garages, will remain the responsibility of the landlord and must not be included in the tenants' electric bill.
- Landlords may not charge tenants a separate electric bill based on sub-metering if electricity costs are included in their rent or otherwise already collected from tenants. Also, sub-meter billing cannot commence until sub-meter billing is performed for all parties. Further, to facilitate customer auditing, expenses incurred by the sub-metering customer for meter reading, meter testing and billing may not be included in the tenants' electric bill.
- Landlords will also be subject to consumer protection rules, including prohibitions against termination of service, records retention policies, limitations on security deposit requirements, segregation of rental and electricity payments, and the need to develop written terms and conditions of service.

Recognizing that some landlords may have been sub-metering without prior PURA approval, PURA will accept applications for prior unauthorized sub-metering that has not been the subject of Authority/DPUC proceedings provided that an application has been submitted and received by the Authority, including any processing fees, no later than six months after the date of the Interim Decision.

This Alert was authorized by Fred Klein, partner in the Regulatory Department at Pullman & Comley, LLC.

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