

## Immediate Release

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## U.S. Court of Appeals Hears Appeal for Return of CT Energy Efficiency and Clean Energy Funding

*Attorneys present oral arguments as ratepayers, energy efficiency and clean energy businesses, environmental orgs, and consumer groups demand remedy for misuse of funds*

New York, NY – Attorneys for ratepayers, efficiency and clean energy businesses, environmental organizations, and consumer groups argued before the U.S. Court of Appeals for the Second Circuit in New York today. Their appeal asks for a reversal of a U.S. District Court decision that denied plaintiffs a remedy in their lawsuit to force the State of Connecticut to restore \$145 million in ratepayer dollars intended to save families money on energy bills and reduce climate pollution. (A recording of the oral arguments will be available [here](#); see Docket# 18-3533 LETICIA COLON DE MEJIAS v. DANIEL P. MALLOY.)

The businesses and nonprofits [filed a federal lawsuit](#) in May 2018 seeking to stop the Connecticut state legislature’s 2017 sweep of energy efficiency and clean energy funds, and to prevent future diversions. They argued that diverting ratepayer funding to plug a budget deficit violates the Contract Clause and Equal Protection Clause of the United States Constitution and functions as an illegal tax on tax-exempt organizations.

[A U.S. District Court judge ruled](#) the sweep did not impair contracts because utility tariffs and state law never promised ratepayers that their dollars would *not* be transferred to the General Fund for unrelated purposes. [Plaintiffs have appealed that decision](#), arguing that:

- 1) the district court wrongly concluded Plaintiffs do not have enforceable contracts. While the district court decided “there is no basis to conclude that the Act impairs any contractual relationship between the plaintiffs and the [electric utilities],” the tariff charges that ratepayers pay their utilities gives those ratepayers the contractual right to protect the efficiency funds.
- 2) the plaintiffs have a valid Equal Protection claim because the Act wrongfully taxes all ratepayers of electric utilities whereas customers of municipal utilities are not subject to the tax.

“Residents trusted that their ratepayer dollars would go where their electric bills said they would—towards energy efficiency and clean energy programs that save money and cut climate pollution—but instead those hard-earned dollars were used to plug a hole in the state budget,” **said Roger Reynolds, senior legal counsel at Connecticut Fund for the Environment/Save the Sound, a plaintiff in the suit.** “We believe strongly that the Connecticut legislature’s action two years violated both the Equal Protection Clause and Contract Clause, and hope the U.S. Court of Appeals will agree and order a remedy for the ongoing harms this raid in causing.”

“At a time when over 400,000 Connecticut residents can’t afford to keep their lights on, we must ensure the funds collected on these bills is used for the purposes that they were intended,” **said lead plaintiff**

**Leticia Colon de Mejias, an energy efficiency advocate and business owner.** “The Conservation Load Management fund should be utilized specifically to draw down our energy demands and lower our energy expenses. We urge the state of Connecticut to protect the ratepayer funds.”

**On behalf of plaintiff New England Smart Energy Group, LLC, business owner Stephanie Weiner said,** “At a time where climate change is on our doorstep it’s the responsibility of government, especially state governments, to lead the way. Two years ago, our legislators made a big mistake in raiding our energy efficiency funds. Connecticut’s nationally-recognized energy efficiency services are the best defense against the impending climate chaos. We’re still pushing for this mistake to be corrected now, so Connecticut’s government can be on the right side of history.”

“Connecticut’s energy costs are one of the highest in the nation,” **noted HE-Energy Solutions, LLC owner Vivian Perez.** “When lawmakers acted capriciously as they did when they voted for the sweep, they created a new burden for us in the higher cost of maintaining our homes and businesses. Energy Efficiency services help us keep a cap on our energy consumption. I hope that there is a positive result regarding this appeal, and that in the future our lawmakers have a better understanding of how important and vital this industry is in our state.”

“The simple fact is that people who pay electric bills in this state were charged \$145 million for services they never got. If the Appeals Court agrees with us, chances are all \$145 million must be returned,” **said Mike Trahan, executive director of SolarConnecticut, who in 2017 initiated the coalition to bring the lawsuit.**

Additional plaintiffs in the suit are Best Home Performance of CT, LLC; Bright Solutions, LLC; Connecticut Citizen Action Group; CT Weatherproof Insulation, LLC; Energy Efficiencies Solutions, LLC; Fight the Hike; Jonathan Casiano of Windsor; and Steven C. Osuch of East Windsor. The plaintiffs are represented by attorneys from the firms of Holland & Knight in New York City and Hartford-based Feiner Wolfson. Defendants are the Governor, Treasurer, and Comptroller of the State of Connecticut.

A decision on the appeal is expected by June 2020.

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**Background and filings:**

[May 15, 2018 Complaint](#)

[Press release on filing of lawsuit](#)

[July 20, 2018 Motion for Summary Judgment](#)

[August 13, 2018 Response brief](#)

[October 25, 2018 Ruling on Motions for Summary Judgment](#)

[November 26, 2018 Appeal](#)