



CONNECTICUT RESOURCES RECOVERY AUTHORITY

BACKGROUND

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Questions and Answers on *New Hartford v. CRRA*

Q. Why are these towns suing CRRA?

A. They're unhappy with the way CRRA used money it received from the Enron bankruptcy settlement.

Q. What did CRRA get from the Enron bankruptcy?

A. CRRA received \$111.8 million from the proceeds of its Enron bankruptcy claim. In July 2004, the bankruptcy court overseeing the Enron case awarded CRRA a claim valued at about \$82.7 million. Because that claim was a combination of stock and cash to be paid over a period of years, CRRA was able to auction that claim in the financial markets and received a lump-sum cash payment of \$111.8 million.

Q. What did CRRA do with that money?

A. CRRA used that money to pay down debt – a state loan that helped CRRA stay afloat after the Enron disaster that had to be repaid in full with interest and bonds used to finance the Mid-Connecticut Project trash-to-energy plant.

Q. What did the towns think CRRA should have done?

A. The towns claim CRRA should have instead rebated some or all of that money to them.

Q. What's wrong with that?

A. This is a zero-sum game – any money we disbursed to the towns would have resulted in higher disposal fees later. CRRA's board and management decided the prudent thing to do was to whittle down its debt to assure continued stability in its disposal fees for years. CRRA didn't want to borrow against its future simply for the instant gratification of handing out a few checks – that would be like splurging on a trip to Hawaii instead of paying off your second mortgage. Further, if CRRA did give away any of that money, then CRRA would need even more money from somewhere else to make up for the Enron loss.

Q. Where does CRRA get its money?

A. CRRA is a quasi-public agency that gets no state subsidies or funding. It pays its own way with revenue from three sources – disposal fees from towns who pay us to take their garbage, sale of electricity we generate by burning their garbage and the sale of recyclable commodities they deliver to us. By far most of the money comes from those disposal fees. CRRA is run like a business but does not make a profit; instead, all benefits accrue to the people of Connecticut.

CRRA backgrounder

New Hartford v. CRRA Q & A

Q. But with that bankruptcy claim, CRRA had all that extra money. Couldn't it have shared the wealth?

A. CRRA lost \$220 million in the Enron bankruptcy, but that settlement was only about half of that sum. Had we done nothing but raise disposal fees to make up for that loss, towns would be paying \$92 a ton today, a serious impact on town budgets and property taxes. Instead, thanks to the actions we've taken, the disposal fee is \$69 a ton.

Q. What actions did CRRA take?

A. In 2002, after the Enron bankruptcy, the General Assembly passed legislation (Public Act 02-46) that, in effect, created a new CRRA, creating a new board of directors that then hired a new management team. The General Assembly allowed CRRA to borrow up to \$115 million – provided it repaid the loan in full, with interest – and take whatever other actions it deemed necessary to mitigate the impact of the Enron loss on the Mid-Connecticut Project cities and towns. Those actions included spending down our reserves, restructuring contracts, reorganizing our work force, sourcing lower-cost vendors, re-selling its electricity and structuring its recycling contract to generate revenue. Those actions, along with recovering that \$111.8 million, kept increases in disposal fees to a minimum. In fact, for two years in a row the disposal fee was \$70, and this year we actually lowered it to \$69. Name something else that costs less today than it did three years ago.

Q. Seems like you've done a lot.

A. We're proud of what we've done. We only had to borrow about \$22 million from the state, and that loan is paid off. Three years ago we owed more than \$180 million on those Mid-Connecticut Project bonds; today the payoff balance is less than \$16 million.

Q. So what do these towns want?

A. They want to stop us from passing any costs related to the Enron bankruptcy to them and, possibly, refunding what the court may feel are past overcharges or paying additional damages. For starters, that would mean rolling back disposal fees to \$66.25 a ton and, possibly, additional payments to towns.

Q. Two dollars and seventy-five cents a ton doesn't seem like much money.

A. Remember, as a quasi-public CRRA must take in enough to cover all its expenditures. If revenues fall below expenditures, CRRA would eventually run out of money. That would force the project into receivership, which would force the sale of the trash-to-energy plant and other assets, most likely to the private sector. That would mean big increases in disposal fees for towns, which would mean big property tax increases for those towns. And unlike the private sector CRRA provides no-cost recycling to its member towns, so towns would get a double-whammy from losing the Mid-Connecticut Project to the private sector. Some non-CRRA towns are paying more than \$30 a ton to dispose of their recyclables, a service CRRA provides for free.

CRRA backgrounder

New Hartford v. CRRA Q & A

Q. Wasn't there some other way to fix the problem caused by the Enron bankruptcy?

A. It took years of hard, difficult work to keep CRRA solvent and stable – there was no other way. By the time our new board and management team were in place, the Legislature had already decided how we were to fix the problem. The Legislature had already decided against a state bailout, which would have spread the problem to every taxpayer in the state, so our options were limited. If there was an easier way, we would have taken it.

Q. Tell me more about the Enron bankruptcy.

A. The story actually began when the state restructured the electric industry. Under that restructuring, in the year 2000, Connecticut Light & Power bought out its long-term contract to buy electricity from CRRA. In that transaction, CRRA received \$280 million and the power plant that is now part of CRRA's Hartford trash-to-energy facility. CRRA needed a buyer for that electricity, so it signed a long-term contract with Enron – which at the time was one of the 10 largest companies in the world. As part of that contract, CRRA transferred \$220 million to Enron, which in exchange agreed to pay CRRA more than \$26 million per year through 2012. Those payments stopped in 2001 shortly before Enron declared bankruptcy.

Q. Then the General Assembly took action.

A. Right. If you read the legislation they passed, you'll see they a new CRRA and put into place some pretty strict controls on how we do business. They agreed to lend us money that they required us to pay back in full with interest. They also ordered us to do whatever was necessary to mitigate the impact of the Enron loss on disposal fees. And they put the Attorney General in charge of managing all Enron-related litigation.

Q. There are other Enron-related lawsuits?

A. Within months of the bankruptcy, the Attorney General sued, on CRRA's behalf, a list of others – law firms, investment houses, banks and individuals – who played some role in the Enron deal.

Q. Sounds like those suits have been dragging on for a while.

A. It's been almost five years since Enron declared bankruptcy. We expect our perseverance to net some eight-figure settlements as a result of those actions, and that money will benefit the towns by helping us continue to keep our disposal fees stable. Remember, we're charging less this year than we did three years ago, and with additional settlements we can continue in that direction. However, the New Hartford suit is actually delaying those settlements and driving up our costs.

Q. Speaking of costs, isn't the New Hartford suit costing CRRA money?

A. Our total legal bill so far is approaching \$1 million, and that doesn't count the thousands of hours of staff time devoted to this action. Our insurance carrier has picked up all but \$100,000 of the legal tab but has notified us it can revoke our coverage at any time.

Q. Where do you get the money to pay those legal bills?

A. From our revenues – mostly from the cities and towns and their disposal fees. Any money we pay out – whether in legal bills or damages – means higher costs to taxpayers. Further, a chunk of any money the towns recover will go to their lawyers. Put another way, these towns are at once suing CRRA and paying for CRRA to defend itself against that suit. The towns are funding both sides of this action.