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Energy and Technology Committee

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HB 5783 - An Act Concerning Electricity Market Incentive Rebates

NRG is pleased to provide the following comments on draft bill HB 5783 - An Act Concerning Electricity Market Incentive Rebates. My name is Ray Long. I am Director of the Northeast Region for NRG Energy, Inc. NRG is a competitive wholesale generator in Connecticut with power plants located in Montville, Middletown, Norwalk, Devon, Cos Cob, Torrington, and Branford. We operate over 2,000 MWs in Connecticut, enough power to serve over 1.4 million households.

In brief, NRG is opposed to HB 5783, as this legislation will only serve to raise costs for consumers and thwart potential future investment of generation designed to further diversify Connecticut's generation mix. Additionally, this legislation is simply a new draft of the so-called "windfall profits" tax legislation that has been overwhelmingly rejected by the legislature in the past three legislative sessions. As discussed more fully below, initiatives by this Committee and the Legislature as a whole have set Connecticut on a path to developing new needed resources that will ultimately bolster reliability, improve the environment and stabilize electricity prices. We should allow these initiatives the time to be fully realized before considering draconian legislation such as the draft before you today.

Background

Over the past five years, the legislature has fully vetted many options to provide Connecticut's ratepayers with the most cost-effective generation available. The Legislature has already fully contemplated a windfall profits tax, cost of service

generation and utility owned generation in developing legislation that is now law. In 2005, the legislature passed the Energy Independence Act, which among other things created a competitive process for procuring peaking and baseload generation. In 2007, the legislature passed a comprehensive bill that included a competitive process currently underway to develop cost of service peaking generation, which could be developed by the utilities if their projects are in the best interests of ratepayers. Both utilities and competitive suppliers are participating in this competitive cost of service process before the DPUC. Most importantly, these processes are working.

Put simply, there is no need for new legislation that once again changes the course of energy generation in Connecticut. With comprehensive legislation in place, it is important for Connecticut to provide a consistent framework for market participants.

Connecticut law, including the 2005 Energy Independence Act and the 2007 Energy Act, contain many protections for the state's consumers:

1. The 2007 Energy Act created a process for new peaking generation. Bids were submitted on March 3rd by both utilities and other generation developers who are competing on price for a cost of service arrangement with the DPUC. The DPUC is expected to make a decision on the submitted projects in July.
2. The 2007 Energy Act created an integrated resource planning process to identify and procure CT's generation needs going forward. This process is underway at the CEAB. Identified resource needs are to be competitively bid and both utilities and other generators are allowed to participate.
3. Additionally, new generation is being developed in CT based on changes in the wholesale market. NRG, for example, is adding 40 MW of peakers to the Cos Cob plant in Greenwich. These new units will come on line this summer in time for the peak season.

"Windfall Profits Tax" shifts higher costs and risks to consumers:

HB 5783 provides no safeguards for Connecticut consumers and will expose consumers to the costs that merchant generators otherwise may choose to internalize to remain competitive in the wholesale market. On its face, this legislation seeks to protect consumers by imposing cost of service principles on certain types of generation in the state. Even if the legislation were found to be constitutional, there is no guarantee that it will save consumers money.

1. For those baseload generators that choose not to enter into contracts, the punitive incentive recovery charge imposes an additional cost of doing business which cannot be properly estimated or managed threatening the viability of some of the resources with the lowest fuel costs in the state.
2. As coal and nuclear generators are faced with increasing environmental and major maintenance requirements, they would go directly to consumers to foot the bill, without having to manage their expenditures within the margins ordinarily earned in the wholesale markets
3. As with all business, both buyers and sellers have good reason to enter into contracts to stabilize their future cost or revenues. Although it is not possible to predict at what price a generator would enter into a long-term contract, given the opportunity to do so on a commercially reasonable terms, there is every reason to believe that generators would be willing to do so competitively in order to secure a revenue stream into the future.

Proposed Solution

The altruistic goal of this legislation is to avail Connecticut consumers of the lowest price for electricity stemming from generation with low fuel costs – nuclear and coal. Connecticut would achieve this same goal with the support of the industry if it simply allowed and encouraged the utilities to enter into medium and long-term contracts for energy. Merchant generators in the regular course of business enter into contracts of varying length each having different price points and therefore benefits to consumers. The Connecticut regulatory structure and its utilities have generally shied away from

contracts beyond 3 years. In order to fully avail itself of this lower cost generation – and ensure that the state does not inadvertently increase costs by shifting those costs directly to the ratepayer – the state has an opportunity to simply authorize the utilities to negotiate and enter into medium and long-term contracts with merchant generators.

Conclusion

We urge the Legislature to reject HB 5783 as currently drafted. As stated above, Connecticut consumers would benefit from the utilities being authorized and directed to explore entering into mid and long-term contracts. This approach would essentially force generators to compete against each other guaranteeing the lowest cost for consumers – and without the added consequence that another tax be borne by ratepayers. Moreover, the Legislature should allow the 2007 Energy Act to work. RFPs for intermediate, baseload and peaking generation that result in long term contracts or other payment mechanisms for investment in generation are the keys to getting the cleanest, most efficient and cost effective generation for Connecticut Ratepayers. The state can pick the projects based on need and ratepayer benefit. Competitively bid processes are the surest ways to insure that ratepayers get only the lowest priced, most efficient generation. As new efficient and low cost generation enters the market, older more expensive and less efficient generation will be forced out of the market. These competitive processes select generation projects on the basis of their impact on reliability and consumer costs, and Connecticut will get the benefit of knowing it has chosen the best priced offer for the type of generation needed. Ratepayers cannot be assured that the lowest cost capacity is constructed when a competitive RFP process is not employed.

As in the past, NRG stands ready to work with you to address these issues and move Connecticut forward. Thank you for providing NRG the opportunity to provide comments today.