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**TESTIMONY OF  
ATTORNEY GENERAL RICHARD BLUMENTHAL  
BEFORE THE ENERGY AND TECHNOLOGY COMMITTEE  
MARCH 7, 2008**

I appreciate the opportunity to support the concept of House Bill 5817, An Act Concerning Resource Recovery Facilities.

This proposal requires the Department of Public Utility Control to regulate rates for the disposal of solid waste at privately-owned resources recovery facilities.

State regulation of rates charged for disposing of solid waste or ash residue related to trash to energy plants -- known as tipping fees -- is absolutely critical as local or quasi-public authorities turn over these plants to private operators. Starting on December 31, 2008, the Bridgeport Resources Recovery plant will be controlled by a completely private entity. Over the next decade, the same will happen to three more plants -- the Wallingford Resources Recovery plant (2010), the Bristol Resources Recovery plant (2015) and the Preston Southeastern Connecticut Resources Recovery Plant (2017).

All of these plants were built with taxpayer dollars, but private corporations will take ownership and have taxpayers at their mercy in exercising monopolistic power. Fees charged to municipalities will fail to reflect the contribution of public funds to the construction of such facilities, allowing private operators to make enormous profits at the expense of local taxpayers in more than 50 towns across the state.

Few options exist for municipal disposal of trash. Trash to energy plants are limited in number and capacity, and so are municipal or private landfills. Out of state disposal is expensive because of high transportation costs and may not be a long-term solution as environmental and public policy issues may cause closure of existing landfills or limits on deposits of solid waste.

Each private operator of a resources recovery plant has a local monopoly on trash disposal -- a service as vital as electricity and water. Each can charge huge tipping fees -- collecting windfall profits from a plant built largely at taxpayer expense.

Just as in electricity and water service, the solution is to regulate rates.

The Department of Public Utility Control has the experience and expertise to review power generating plants and assets and determine the appropriate tipping fees, taking into consideration cost of operation, investment capital and other sources of revenue.

The methodology for DPUC rate review is well established, including an opportunity for citizen comment at a public hearing. The DPUC could receive input from municipal users and then issue a draft decision establishing the tipping fee. The commission could afford an additional chance for comment before the final decision. Under constitutional law, charges for a vital service can be regulated -- provided that companies are allowed to charge "just and reasonable rates." These rates must take into consideration a fair return on either equity or the amount invested in the facilities.

As a frequent critic of the DPUC and its rate and oversight decisions, I certainly am mindful of this agency's faults. Its potential defects and failings -- perhaps more in evidence recently than ever before -- need to be remedied. There are solid grounds for criticism and skepticism, but in concept this agency is the right one. In practice, energy administration must be restructured and reformed. Utility rate review is a necessary, vital function, and the agency that does it should also have authority over tipping fees.

There are several other concepts in House Bill 5817 that are not directly related to the rate regulation of tipping fees. The first requires the utility to purchase electricity from the resource recovery facility on a long-term contractual basis. The rate must be approved by the DPUC. I agree that consumers should benefit from long-term contracts with the facility. These bi-lateral contracts can save money for consumers by limiting transaction costs that inflate electricity prices through the FERC market system. The facility should receive fair market rates for the electricity -- otherwise the property taxpayers of the municipalities that use the resource recovery facility will be, in effect, subsidizing lower electricity rates.

Under a second concept, the Connecticut Municipal Electric Energy Cooperative (CMEEC) could purchase electricity for low-income residents, seniors and governmental entities. As with the bi-lateral contracts with the resource recovery facilities, this concept should be explored. The bill also has CMEEC provide conservation programs for this population. I am concerned that CMEEC would be duplicating existing programs already conducted through the Energy Conservation and Load Management Board.

I urge the committee to favorably consider House Bill 5817 consistent with the concerns expressed in this testimony.