

TESTIMONY

OF

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ON BEHALF OF

CONSTELLATION NEWENERGY, INC.
& CONTELLATION ENERGY COMMODITIES GROUP, INC.

RAISED BILL NO. 5817

AN ACT CONCERNING RESOURCE RECOVERY FACILITIES

ENERGY AND TECHNOLOGY COMMITTEE

MARCH 7, 2008

Thank you for the opportunity to provide this testimony. My name is Thomas Bessette, Vice President Energy Policy--New England for Constellation NewEnergy, Inc. ("CNE"). I am representing both CNE and Constellation Energy Commodities Group, Inc. ("CCG"), collectively ("Constellation").

CNE is a licensed retail supplier in 17 states, including Connecticut. CNE currently provides over 15,000 MWs of electrical supply directly to businesses throughout the country for their own use and has hundreds of customers in the state of Connecticut. Constellation Energy Commodities Group, Inc. is a wholesale supplier of electricity across the country and regularly serves Standard Service and Supplier of Last Resort Service to Connecticut's electric distribution companies. CNE and CCG are subsidiaries of Constellation Energy Group, Inc., a Fortune 200 company headquartered in Baltimore, Maryland.

Raised Bill No. 5817 – An Act Concerning Resource Recovery Facilities

Constellation opposes Raised Bill No. 5817. In particular Constellation opposes Section 4 which states that the seller of electrical output from an eligible facility shall be entitled to a long-term power purchase agreement with an electric distribution company in whose service territory the facility is located and that the electric distribution company shall purchase the output of the facility at a price that is negotiated at arm's length. Finally, the section states that the terms and conditions shall be filed with the Department of Public Utility Control.

Constellation opposes this bill because mandated long-term contracts with electric distribution companies (“utilities”) 1. could subject Connecticut ratepayers to another round of costly stranded costs and 2. would signal a retreat from electric industry restructuring which has been a success in the state of Connecticut. In addition, the language does not even require the pre approval of the pricing terms by the Department of Public Utility Control (“Department”), only that the contractual terms are filed with the Department after the fact.

Stranded Costs

Long-term contracts between utilities and eligible resource recovery facilities would expose utility ratepayers to new stranded costs. Prior to restructuring the utilities’ customers bore the risk of uneconomic decisions to build generation or enter into long-term supply contracts, which resulted in billions of dollars in stranded costs that are still being recovered from ratepayers today and for years to come. Connecticut Light and Power’s stranded costs were \$3,582,126,000 and United Illuminating’s stranded costs were \$801,300,000. Indeed the Department approved the stranded cost recovery of numerous long-term contracts entered into pursuant to the implementation of the Public Utility Regulatory Policies Act between 1998 and 2000.

One of the primary rationales for the restructuring of the electric industry in the state of Connecticut was to remove the risk of uneconomic investment from utility ratepayers and place it on the shareholders of market players. This bill would once again place that burden on captive ratepayers as opposed to the shareholders of merchant generators.

Electric Industry Restructuring has been a Success

To require utilities to enter into long-term contracts with eligible resource recovery facilities would be a step back to pre- electric restructuring days in the state of Connecticut. In addition, it would also be the proverbial camel's nose under the tent. Connecticut Light & Power has already indicated its intention to enter into long-term contracts for energy and capacity generally (*see* Department Docket No. 06-01-08PH01) and has argued at the Legislature over the past few years that it should be allowed to build generation once again. All of these efforts are contrary to the existing restructuring statute and would represent a significant turning back to a vertically integrated utility system. To allow these utility sponsored initiatives would signal a failure of restructuring. To the contrary, electric industry restructuring has been a success nationally and in the State of Connecticut.

Critics of restructuring claim that it has not lived up to expectations because electricity prices have increased since restructuring legislation in the late 1990s. However, the correct yardstick is not whether electricity is more expensive today than it was at the beginning of restructuring (almost all commodities are more expensive now than they were in the late 1990's). Rather, the correct measure is whether electricity is more expensive today than it *would have been* under traditional cost-of-service regulation. The fact is that electric restructuring has saved billions of dollars for consumers. A number of independent statistical analyses prove the case (Attachment 1 summarizes some of the empirical research conducted on the electric industry over the past few years). Indeed, within the past six months, three reports have been released that detail the

benefits of electric industry competition generally and particularly with respect to the development of renewable generation and demand response resources:

- **Analysis Group:** *Decoding Developments in Today's Electric Industry – Ten Points in the Prism* – Susan F. Tierney, Ph.D. (October 2007). The Analysis Group found that relatively high electricity prices are likely to continue in the future whether one is in a restructured or a vertically integrated electric system. The reasons are the high cost of fossil fuels and other products, the need to invest in additional transmission and distribution infrastructure and environmental upgrades required to meet existing and future mandates to reduce pollution and address global warming. This research further finds that restructured markets have provided measurable benefits by: (1) allowing larger customers to realize savings relative to what their prices would have been had they continued to buy power from their utilities; (2) improving the efficiency and dispatch of the generation fleet; (3) providing transparent transmission pricing and a vibrant competitive market to allow for greater use of renewable power resources; (4) promoting greater demand response; and (5) shifting the risk of uneconomic investment from captive utility ratepayers to shareholders of private companies. Finally, by better use of market mechanisms, consumers may be in a better position than in the past to determine how much and when they use electricity thereby reducing their demand and lessening their cost.

- **ISO/RTO Council:** *ISO and RTO Integration of Demand Response into Wholesale Electricity Markets* (October 2007). This analysis concludes that Regional Grid Operators have successfully encouraged the growth of demand response through innovative market designs and demand-response programs. Benefits include incentive

payments to participating customers, lower wholesale prices for all customers, reduction in new generation plant, and additional jobs through the increased demand for information and control technologies. According to the report, more than 23,000 megawatts of demand response are now participating in North American ISO and RTO markets, representing 4.5% of their combined electricity demand.

- ***ISO/RTO Council: ISO and RTO Support of Policies that Encourage Renewable Energy*** (October 2007). This research finds that the markets run by ISOs and RTOs are proving effective in encouraging the development of renewable resources. According to this report, several features of wholesale electricity markets promote the development of renewable resources including the following: (1) ISO and RTO wholesale markets are open to all who wish to invest in and develop new resources; (2) prices are transparent, allowing investors to make economic decisions about what type of plants to build; (3) large and flexible wholesale markets reduce the cost of integrating wind into the power system; (4) coordination of regional transmission planning facilitates the building of transmission needed to bring renewable energy to market; and (5) extensive stakeholder input into establishing market rules is responsive to the needs of new technologies. As a result of the efforts of ISOs and RTOs, nearly half (44%) the 300,000 megawatts of proposed new generation are from renewable energy projects. Wind energy is the largest single technology in the ISO and RTO interconnection queues, representing 10 times the amount of wind generation currently installed. Finally, the success of markets in enabling new renewable resources is evidenced by the fact that ISOs and RTOs host 79% of today's installed wind generation, which is well above their 44% share of wind energy potential and 53% share of total North American electricity demand.

Clearly, the body of evidence shows that electric industry restructuring has benefited consumers and has provided a robust platform for the development of new renewable resources (such as biomass facilities); and further, it has fostered the development of new renewable resources without the need for a return to vertical integration.

Here in Connecticut, electric restructuring has also provided real choice for commercial and industrial customers. Between 70-80 percent of large commercial and industrial customers and over 40 percent of medium commercial and industrial customers have chosen to leave utility service and purchase electricity from a competitive retail supplier. Constellation serves such diverse customers as the city of Hartford, the Manufacturers Alliance of Connecticut and the Connecticut Consortium, which serves school districts, cities and towns. Constellation provides a plethora of innovative products ranging from long-term fixed-priced products to real-time, renewable and demand-side products.

Further, restructuring has resulted in cleaner and more secure electricity in New England. Ten thousand megawatts of new clean gas-fired generating plants have been built to meet increased demand while also reducing annual carbon-dioxide emissions 6 percent, nitrogen-oxide emissions 32 percent, and sulfur-oxide emissions 48 percent. The efficiency of the generation fleet has improved from 81 percent to 88 percent. Finally, demand response programs have dramatically lowered the stress on the electricity grid in times of high use. The inescapable conclusion is that the electricity grid is more reliable, stable and environmentally friendly since restructuring.

Last but not least, as stated above, electricity restructuring moved the risk of bad investment decisions from utility ratepayers to merchant company shareholders. No longer do Connecticut's customers pay for the mistakes of utilities, mistakes that resulted in billions of dollars in stranded costs. Electric restructuring has shifted that risk from captive ratepayers to merchant company shareholders.

Competition in the provision of electricity, as in all commodities, is a sensible approach. Electric restructuring has worked nationally and has worked for consumers in Connecticut. Competition promises future benefits from innovation and new technologies. To require utilities to enter into long-term contracts with eligible resource recovery facilities would be the first step in turning the clock back on the significant benefits realized through electric industry restructuring. In order to ensure new energy choices to meet our growing economic, environmental and national security challenges, Connecticut can not abandon electric restructuring and its tangible environmental and economic benefits.

CONCLUSION

In light of the foregoing, we urge the Committee to reject Raised Bill No. 5817.

Thank you for the opportunity to provide this testimony.

Attachment 1

Electric Industry Restructuring Studies

New England

- ***New England Energy Alliance: A Review of Electric Industry Restructuring in New England*** (September 2006). The New England Energy Alliance found that New England Customers saved between \$6.5 and \$7.6 billion from 1998 to 2005.
- ***The AIM Foundation: Electricity Industry Restructuring in Massachusetts: Progress in Achieving the Goals of the Restructuring Act*** (December 2005). The Associated Industries of Massachusetts Foundation's study of seven years of data (since the passage of the Massachusetts Electricity Restructuring Act in 1997) found significant economic benefits for all classes of consumers in the Commonwealth and significant environmental benefits. Consumers saved over \$2 billion and are provided a choice of retail supplier. In addition, emissions from the generation of electricity decreased up to 45 percent even though electricity production increased by 20 percent.
- ***ISO-NE: The Benefits of ISO's and RTO's*** (April 2005). The ISO-NE evaluation of the New England wholesale market found a host of regional benefits from electric competition. On a cost level, there were wholesale market cost reductions of \$700 million annually, with electric prices (adjusted for fuel costs) declining by 5.7 percent since 1997. Regionally, there has been \$9 billion in power plant investment from 2001-2004, providing 10,000 MW of efficient new capacity with environmental improvements resulting from reductions of CO₂, NO_x and SO₂ emissions.

National or Regional

- **Analysis Group:** *Electricity and Underlying Fuel Prices: A Survey of Non-Restructured States* (April 2006). The Analysis Group analyzed the recent history of electricity and underlying fuel prices in several states to better understand the potential effects of disparate regulatory and fuel mix settings on electricity prices across the country. The key finding was that the trend of increasing prices for electricity is not unique to states that have allowed for retail competition. The Analysis Group concluded that increases in fossil fuel prices used to produce power are being passed along to consumers in the form of higher electricity prices in both restructured and non-restructured states.
- **Global Energy Decisions (“GED”):** *The Benefits of Competition in America’s Electric Grid: Cost Savings and Operating Efficiencies* (July 2005). GED’s analysis of the Eastern Interconnection concluded that wholesale competition is working. The study found that wholesale competition has led to lower wholesale costs and more renewable resource options. From 1999 to 2003, consumers realized \$15.1 Billion in value due to wholesale competition. Moreover, GED found that there has been a dramatic improvement in power plant operating efficiency, with PJM’s wholesale power customers saving \$85.4 million in production costs.
- **CERA:** *Beyond the Crossroads: Future Directions of Power Industry Restructuring* (June 2005). CERA’s study concluded that real power prices are lower compared to the previous regulated period and what prices would have been if traditional regulation had continued. Further, CERA found that the majority of U.S. consumers have paid less for electricity since the onset of power system deregulation, realizing

cost savings of \$34 billion. CERA observed that the average U.S. real price of power declined over the era of deregulation from 1997-2004.

Other States

- ***Perryman Group: Electric Competition: Four Years of Cost Savings and Economic Benefits for Texas and Texans*** (April 2006). The Perryman Group concluded that since the introduction of retail competition in Texas' electric market, Texans have realized substantial savings compared to what they would have paid in a regulated environment. Last year, these direct savings reached an estimated \$3.611 billion. The Perryman Group further found that the impact of these cost savings provided an annual stimulus to the Texas economy of \$9.73 billion in total expenditures, \$4.64 billion in gross product and almost 47,800 permanent jobs. The Perryman Group also noted a positive impact on new electric generation development, with an addition of 25,000 MW of new capacity.
- ***New York Department of Public Service: Staff Report on the State of Competitive Energy Markets: Progress to Date and Future Operations*** (March 2006). The New York State's DPS evaluation of the state's wholesale market found that wholesale competition had led to significant efficiencies. The total real (inflation-adjusted) electric price for a typical residential retail customer in New York dropped by an average of 16 percent between 1996 and 2004. Most commercial and industrial customers saw decreases in their real energy bills as well. Other benefits include new generation constructed in load pocket areas, increased generator availability, and the preserved safety and reliability of the power system.