

Committee on Environment  
Testimony on Raised Bill # 5817  
An Act Concerning Resource Recovery Facilities  
By Covanta Energy Corporation  
March 7<sup>th</sup>, 2008

Thank you Chairman Fonfara, Chairman Fontana and members of the Committee. My name is Frazier Blaylock and I am the Director of Federal Government Relations for Covanta Energy Corporation. I am joined today by Cheryl Thibeault, Business Manager at the Covanta Mid Connecticut and Covanta Projects of Wallingford energy from waste facilities. Covanta operates 34 Waste-to-Energy (WTE) facilities, in the United States, owning and operating about half of them on behalf of our local client community. In Connecticut, we operate the facilities in Bristol, Hartford, Preston and Wallingford on behalf of the respective Resource Recovery Authorities.

We are here today to speak in opposition to Raised Bill 5817.

The premise of the legislation is that privately owned resource recovery facilities charge higher disposal rates than publicly-owned resource recovery facilities and, therefore, the DPUC should regulate the rates charged by privately owned facilities to protect the Connecticut ratepayers.

I appreciate the opportunity to explain to you why this premise is false and why the legislation would not only fail to protect the citizens from higher garbage rates, but also jeopardize the very infrastructure that Connecticut depends upon for much of its solid waste disposal.

Let me begin by saying that Covanta has several merchant plants in other states where we now offer competitive prices after the original municipal contracts had expired. Garbage disposal is a free market enterprise in the United States. Privately owned waste-to-energy facilities here in Connecticut as well as surrounding states, must provide disposal services at a competitive rate in order to attract customers. Unlike publicly owned disposal facilities, private companies cannot direct communities to send their trash to their plant through the use of "flow control." They must compete in the open market. Connecticut's best chance to keep tipping fees low is to promote, and not eliminate, competition among privately-owned facilities.

The imposition of rate regulation on the free market enterprise of garbage disposal will burden the DPUC and thus the citizens of Connecticut with significant new costs. This will be a new role for the DPUC and will involve a financial investment in educating and training existing staff as well as adding new regulatory personnel salaries for staff to administer this new program. The ongoing rate regulation program will inherently result in increased costs to the state government that will be borne by all Connecticut taxpayers.

The legislation states that facilities shall not charge a tipping fee in excess of the rate approved by the DPUC. However, Connecticut cannot impose rate regulation on out-of state trash. Therefore, rate regulation could very well incentivize resource recovery facilities to import trash in order to receive a fair market price. Accordingly, if DPUC were to set rates too low, facility owners could choose to contract to accept out-of-state waste, leaving Connecticut municipalities no choice but to find out-of-state disposal. Similarly, if rates are set too high and facilities cannot voluntarily charge lower rates, Connecticut facilities will lose their ability to compete with out-of-state vendors.

I think it is also important to clarify the existing situation with regards to tipping fees at Connecticut resource recovery facilities: Those fees are currently set by the Resource Recovery Authorities (CRRA, BRRFOC, SCRRA and ECRRA). The private operating companies such as Covanta do not currently set the tipping fee paid by local communities. We are paid a fee for operating and maintaining the plant but the Resource Recovery Authorities add in additional fees for authority staff, legal and administrative expenses, among other things. The appropriate amount of, and purpose for that surcharge are valid questions for this committee and the towns that are served by the authorities.

The proposed legislation leaves another other unanswered question which could significantly impact the state and its solid waste infrastructure: Will the rate set by the DPUC include the continued payment of overhead, legal fees, etc at the resource recovery authorities, or will they need to seek funding from other sources including local taxes?

Rate regulating a small number of facilities in a decidedly robust, free market industry in both Connecticut and the surrounding states will likely result in on-going rate case proceedings, further adding to the cost. The purpose of rate regulation is to ensure adequate service at reasonable rates, including a reasonable return, for monopoly utility services, where there was no market in place to keep rates in check. This is not the situation in the garbage disposal business in Connecticut.

In closing, the stated purpose of R.B.5817 is "To promote more affordable electricity." However, as drafted, Section 4 the bill entitles eligible facilities to negotiate long-term (up to 15 year) power purchase agreements ("PPAs"). The

legislature previously recognized the problems with PPAs when it promulgated Public Act 98-28 (electricity deregulation) that mandated the buyout or buydown of existing PPAs, in recognition of the fact that most PPAs were over-market as a result of poor forecasting at the time of PPA execution. The buydown/buyout mandate led to the CRRRA/Enron buydown which ultimately led to the loss of \$220 million by CRRRA, and as we all know, this led to the lawsuit between 70 towns against CRRRA for \$36 million.

We would also like to note that long-term contracts fail to allow the electric generator and said authorities to access newly created renewable energy credits – such as the renewable green portion of the electrical pricing. We are looking at these future opportunities to maximize rewards that benefit both Covanta and our clients (merchant or not). For stability purposes, a merchant plant would be willing to lock in a long term tip fee with growth based on a agreed upon index – something not even the authorities can offer communities now.

Thank you for your time, we would be happy to answer any questions.