Testimony of
PSEG Power Connecticut

Connecticut General Assembly
Committee on Energy and Technology
March 7, 2008

Raised Bill No. 5783, An Act Concerning Electricity Market Incentive Rebates
and
Raised Bill No. 5819, An Act Concerning Energy Relief and Assistance

PSEG Power Connecticut appreciates the opportunity to provide the following comments to the Energy and Technology Committee of the Connecticut General Assembly on Raised Bill No. 5783, An Act Concerning Electricity Market Incentive Rebates, and Raised Bill No 5819, An Act Concerning Energy Relief and Assistance.

PSEG Power Connecticut owns and operates the Bridgeport Harbor Generating Station in Bridgeport and the New Haven Harbor Generating Station in New Haven. Together, these facilities provide Connecticut and the region with almost 1,000 megawatts of electric generating capacity.

Our company employs approximately 160 men and women in this state who work very hard to provide their neighbors with safe, reliable, and environmentally responsible supplies of energy. Our workforce includes both union and nonrepresented employees and our in-state payroll is approximately $21 million a year.

PSEG Power Connecticut has committed almost $500 million to acquire and improve the efficiency and environmental performance of our plants.

We supported tougher air emission standards in the state. As many members of Energy and Technology Committee are aware, we took an active and constructive role in helping to enact the mercury emissions control legislation signed into law in 2003. We are now in the process of completing a $170 million investment in the emissions control technology at our coal-fired unit at Bridgeport that will enable us to comply with this legislation. Just last week, in testimony before the General Assembly's Environment Committee, we supported Raised Bill No. 5600, An Act Concerning Global Warming Solutions.

On Monday (March 3, 2008) PSEG Power Connecticut submitted a proposal for another significant investment in this State. We are seeking to develop 134 megawatts of new peaking generation under the Department of Public Utility Control's (DPUC) Peaking Docket authorized by Public Act 07-242 adopted by the General Assembly last year.

In short, PSEG Power Connecticut has made a major commitment to this State. However, Raised Bill No. 5783 and Raised Bill No. 5819, individually and collectively, would make it very difficult for us to justify additional investments in Connecticut's energy infrastructure.

Our specific comments on the proposed legislation are as follows:

Raised Bill No. 5783

Raised Bill 5783 would force coal and nuclear operators into long-term, cost-of-service contracts, or subject these facilities to a "market recovery rate" based on a cost-of-service formula determined by the State. This legislation repackages the flawed premises of the so-called "windfall profits tax" legislation overwhelmingly rejected by the General Assembly last year and should be rejected here as well.

The legislation would discourage additional investment in Connecticut and Connecticut's energy infrastructure. It could very likely raise the cost of capital for companies that want to do business here. It creates uncertainty about whether to invest in Connecticut-based generation assets, or even in companies that own such assets.

We believe there are serious and substantial legal and constitutional issues apparent in this legislation.

The Federal Power Act (FPA) gives the Federal Energy Regulatory Commission (FERC) exclusive jurisdiction to regulate wholesale electric rates. Provisions of Raised Bill 5783 that mandate cost-of-service contracts or impose arbitrary cost-of-service rates on wholesale suppliers encroach on FERC's authority, violate the FPA, and likely violate the Supremacy Clause of the U.S. Constitution as well. And FERC, in a decision rendered in

2006, previously rejected attempts by The State of Connecticut to force electric generators into cost-of-service contracts. (FERC Docket EL05-150).

What should be even more troubling to the business community in this state is that the legislation also can be viewed as an unlawful taking of property and a violation of due process protected by both the U.S. and Connecticut constitutions. The legislation attempts to take the value of the targeted assets for state purposes. However, if required to fairly compensate the owners of these assets, any perceived savings or benefits would be eliminated. The legislation sends a chilling message to business owners and investors considering whether to locate or commit capital in Connecticut.

PSEG Power Connecticut agrees that long-term contracting can be an effective option for electric distribution utility companies to meet load obligations and mitigate volatility in wholesale markets. Connecticut's electric utilities, as direct result of action taken by the General Assembly, (Public Act 051, An Act Concerning Energy Independence, and Public Act 07-242, An Act Concerning Electricity and Energy Efficiency) already have the ability to enter into long-term contracts with generators for both electric capacity and energy. These mechanisms should be allowed to work. If the General Assembly is looking for additional, constructive ways to improve the wholesale electric procurement process, it should give serious consideration to the on-line, descending clock auction methodology recommended by Gov. Rell and included in Bill No. 22 introduced by Senator McKinney and Representative Cafero. PSEG Power Connecticut's affiliated companies have direct experience with this process through the Basic Generation Service

(BGS) procurement auction conducted by the New Jersey Board of Public Utilities. The BGS auction is a highly competitive and successful process under which utilities in the state procure approximately 18,000 megawatts of energy and capacity with which to service customers.

Raised Bill No. 5819

PSEG Power Connecticut opposes Raised Bill 5819 which would create a state energy authority to build, own, and operate electric generating facilities and engage in energy procurement. Our view is that a state energy authority with this portfolio of responsibilities would expose the State and its residents to unnecessary credit and financial risk, impede operation of competitive wholesale markets that are providing substantial benefits to the State, and further reduce incentives to invest in the State's energy infrastructure.

The prospect of a state energy authority raises a number of important issues that should be carefully considered, including:

- The costs -- and responsibilities for these costs -- associated with creating and operating a state power authority. In addition, creating and developing such an agency with the expertise and abilities necessary to carry out its charter as outlined in the legislation is a very large challenge with very large consequences for Connecticut residents and ratepayers.

- The investment risk associated with facilities owned, operated, or under contract to a state authority. These facilities would be subject to the same fundamental economics and incur the same type of fixed and variable costs as privately owned plants. A basic question is who, ultimately, bears the risks associated with the performance of such investments?
- The impact of a state agency operating with tax-free financing and the ability to operate facilities as tax-free entities on both the viability of existing investor-owned generating facilities and the ability of the State to attract additional private investment in energy infrastructure.
- The impact of a state power authority on the operation of wholesale power markets. There is strong empirical evidence that despite, contrary rhetoric, wholesale markets are benefiting consumers by improving efficiency, mitigating the impact of rapidly escalating fuel costs, and encouraging investment in new generating, transmission, and demand-response resources.

Conclusion

PSEG Power Connecticut understands the concerns about increased energy costs affecting the State, the region, and most of the nation. Our employees live here, work, here, and face the same challenges as other residents when it comes to lighting and heating homes and fueling family vehicles.

The reasons why energy costs have been increasing are complex and in some cases, interrelated. Public policy responses should be informed by careful examination of available information and factual evidence. In this regard, attached to this testimony is a white paper, "The Causes of Rising Electricity Prices," recently produced by Public Service Enterprise Group Incorporated (PSEG), PSEG Power Connecticut's corporate parent. We believe this is a thoughtful and objective discussion of the events and issues influencing energy costs and offer it is a resource for members of the Energy and Technology Committee.