



Bristol Resource Recovery Facility Operating Committee

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Testimony of the
Bristol Resource Recovery Facility Operating Committee
to the Energy and Technology Committee
March 7, 2008

Raised Bill 5817, LCO 2786

AN ACT CONCERNING RESOURCE RECOVERY FACILITIES

Background

Berlin -
Roger Kemp
Town Manager

Branford -
Anthony DaRos
First Selectman
(Treasurer)

Bristol -
Arthur Ward
Mayor

Burlington -
Kathleen Zabel
First Selectman

Hartland -
Wade Cole
First Selectman

New Britain -
Timothy Stewart
Mayor
(President)

Plainville -
Robert Lee
Town Manager
(Vice President)

Plymouth -
Vincent Festa
Mayor

Prospect -
Robert Chaffield
Mayor

Seymour -
Robert Koskelowski, Sr.
First Selectman

Southington -
John Weichsel
Town Manager

Warren -
Jack Travers
First Selectman

Washington -
Mark Lyon
First Selectman

Wolcott -
Thomas Dunn
Mayor
(Secretary)

Good afternoon Senator Fonfara, Representative Fontana and members of the Energy and Technology Committee. My name is Jonathan S. Bilmes and I am the Executive Director of the Bristol Resource Recovery Facility Operating Committee (BRRFOC). This organization is made up of 14 towns and cities in Connecticut representing over 10% of the state's population. The Committee is concerned with the safe, environmental and cost-effective disposal of municipal solid waste and recyclables. Since its Board is comprised of Mayors, Selectmen and Town Managers, the Committee also represents the direct interests of taxpayers, both residential and commercial, of its member communities.

The BRRFOC appreciates the efforts put forth by the Committee to address several important end of contract issues related to the state's solid waste infrastructure. Resource recovery facilities like the Bristol project are very important to the municipalities that contract with them and are good for our State. Thank you for your recognition of this fact and your interest in considering the impact on municipalities as you work to evaluate the mechanisms to address the generation and financing needs of these facilities.

The United States Supreme Court, in its recent Oneida-Herkimer decision, affirmed the important role and responsibility that local governments have with respect to municipal solid waste. As an essential public service, like water, sewer, fire and police, governments are obligated to look out for their taxpayers' interests first. While the solid waste industry has historically been heavily reliant on the private sector, the ultimate responsibility for the safe disposal of the waste falls on local governments. The private sector will always have an important role to play in the solid waste business but it is not the government's obligation to insure the private sector maximizes their rate of return.

Section 1. Rate Regulation

Section 1 proposes rate regulation for privately owned resource recovery facilities. The contract for the Bristol project unwinds in 2014 when the current bonds are retired. In addition to one five year contract extension, the BRRFOC has the option of purchasing the plant at fair market value. No decision has been made at this time vis a vis end of contract options. If the Communities do not purchase the plant or execute an extension, in 2014 the current owner has full use of the plant to do whatever it feels is in its best interests financially.

In response to concerns raised by opponents of this legislation regarding "takings" and abrogation of contracts, we suggest that the language be revised to state that the provisions related to rate regulation not apply to existing contracts or extensions of existing contracts. We believe the intent of the authors is to provide cost savings to CT municipalities when current contracts and debt service obligations (that have been paid for by CT municipalities) expire. A

driving force for this legislation is the expiration of the Bridgeport and Wallingford project contracts in 2008 and 2010, respectively.

Our communities are satisfied with the current contractual arrangement and do not feel rate regulation would be an asset to our project during the term of the existing agreement. We are comfortable that the current language in Section 1 exempts our current contract (and the one five year extension) from rate regulation. However, the current language needs to be modified to allow the operating committee the option of entering into a new contract with the private owner without requiring rate regulation.

Therefore, we suggest that the end of section 1 read:

"during the term of such contract, any extension of such contract or a new written contract which does not expressly require a rate approved by Department of Public Utility Control."

Sections 2 through 7, Long Term Electric Contracts

BRRFOC strongly supports Sections 2-7 of the Raised Bill. The long-term contract between the Bristol facility and CL&P has been crucial to the BRRFOC and its participating municipalities. When that contract expires, we will need to negotiate a new agreement with CL&P. The need for a long term contract with CL&P is clear.

- o Before the current set of project contracts expires, our participating municipalities must make two decisions:
 - First, they must decide whether they wish to renew their participation in the project for an extended term of years. A reasonably stable market for the electricity will facilitate their assessment of the likely costs of this option.
 - Second, they must decide whether to exercise an option to purchase the facility from Covanta at a formula price set forth in our agreement. To accomplish this, the towns will need to be able to borrow the money to fund the purchase. Lenders will value a stable electricity market, improving the communities' access to capital markets.
- o It is also likely that the facility will need capital improvements as it ages and to comply with any new environmental standards that may be enacted by the legislature or the DEP.

Requiring a contract with the local utility would have a significant impact on BRRFOC and its municipalities:

- o Though I am no power market expert, I believe that it would be expensive and inefficient for a small facility like the Bristol plant to hire the necessary staff to deal with the complex ISO market rules. A long term electric contract would allow BRRFOC stability without adding staff to deal with market rules.
- o The volatility in the energy markets would not provide participating municipalities with stable and predictable tipping fees. A long term electric contract would increase the stability of the project and encourage new commitments to provide waste to the Bristol facility upon expiration of the current project contracts.

- A long-term contract would make it easier to secure financing to undertake any modifications to the plant or to finance a purchase of the plant by the participating municipalities.
- In light of the significant investment the state has made in these plants, it makes sense to keep them operational with a secure long-term commitment of solid waste from Connecticut municipalities, and a long term electric purchase contract.
- We at BRRFOC are aware of the criticisms of long term electricity purchases that have been raised by the utilities and others. To address those concerns, we have previously submitted to this committee and to the DPUC compromise legislation that would continue the purchase obligation but modify it to guard against over market pricing and against private companies earning windfall profits via these contracts.
- We also feel the definition of "participating municipality" should be defined to include Connecticut municipalities only. We do not recommend the legislature mandate long term contracts for resource recovery facilities that process significant waste from outside the state.

Thank you for your attention to this matter. Please do not hesitate to contact me regarding this subject if you have any questions.

