

**TESTIMONY OF
JERROLD OPPENHEIM
IN SUPPORT OF
JANUARY SESSION 2009
RAISED BILL HB 6507
BEFORE THE
CONNECTICUT GENERAL ASSEMBLY
JOINT COMMITTEE ON ENERGY AND TECHNOLOGY**

**February 24, 2009
Hartford, Connecticut**

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My name is Jerrold Oppenheim. I am co-author of the book *Democracy And Regulation* and the monographs *The Economics of Poverty* and *Energy Efficiency Equals Economic Development*, have been an Assistant Attorney General in New York and Massachusetts, and have been an advocate for public utility consumers (especially low-income consumers) for more than 35 years. Among my clients are the community action program networks in Massachusetts and Arkansas and others have been as varied as the Edison Electric Institute, the Entergy Corp., and the District of Columbia Department of the Environment Energy Office. I have appeared before you in the past on behalf of the National Consumer Law Center and AARP, but today I appear on my own behalf.¹

BACKGROUND

The idea that government should protect its people by regulating prices of essential services is a very old one. As early as the 17th Century and before, English law recognized the need to regulate the price and availability of public services, a need which has been firmly established in American law from the beginning. Despite this ancient wisdom, there came to be a belief over the last 30 years that markets were never in need of supervision by regulation. Industry by industry, decades of protections were removed. Airlines were deregulated and many went bankrupt, oversight of savings and loan institutions was lightened and many collapsed, electricity regulation was weakened and prices skyrocketed, financial regulation almost disappeared and even the staunchest free-marketeers concede that deregulation brought us to the edge of catastrophe.

Just as renewed regulation and government intervention is required to restore our financial system, so too are renewed regulation and government intervention required to restore just and reasonable prices to the electricity industry. Connecticut residential electricity bills have risen approximately 80% in this decade and Connecticut prices are reliably the highest or second highest in the country.

As in so many other corners of the economy, weakening the regulation of electricity in Connecticut has been unaffordably expensive.

¹ Additional background information is contained on the last page of this statement.

In recognition of these truths are four important raised bills before you:

- HB 6507 would end the illusory retail competition for residential electricity sales and thus return a measure of market power to customers.
- HB 6512 would assign to regulated electric utilities the task of purchasing optimal portfolios of electricity generation on behalf of residential customers.
- HB 6514 would restore some of the value of low-cost power lost under deregulation by taxing windfall profits and returning them to ratepayers.
- HB 6510 would ultimately restore public control over generation prices by financing long-term purchases from new lower-cost generators.

This package of reforms would work together to bring residential electricity prices back under public control, while providing a reasonable – but no more than reasonable – return to utilities and generators. The bills work together and should be enacted together, but I will address just one in this testimony.

HB 6507

When the provision of electricity was by fully integrated and comprehensively regulated utilities, the seller had no risk that a buyer would disappear. Electricity deregulation introduced that risk in at least two ways, by allowing the possibility of competing sellers of electricity (though few actually emerged) and by limiting the length of contracts. Power plants represent very large investments that require a long time to build and a long time to amortize. If there becomes a risk that the investment will not be amortized, the rational response is to raise prices to cover that new risk. For consumers, it is better to remove the risk and thereby reduce prices. That is one reason electric utility regulation was maintained in the first place.

As the need arises for new power plants – or as the opportunity arises to build new power plants that will be cleaner and less costly than existing plants – there is an additional advantage to establishing a monopsony buyer, as this bill does. A utility with a certain customer base can make long-term contracts with generators in order to facilitate financing; in effect, financiers will look to the long-term prospects of the utility customer base rather than just the generator. The result of this shift is a lowering of risk and a consequent reduction in financial costs, which can be passed on to consumers by a utility purchaser's ability to bargain on

behalf of its customers. Financing is particularly difficult now and may be so for years. The security of a utility contract will make a very big difference in the cost of financing new plant.

HB 6507 dovetails with HB 6512, which provides that electric utilities will use its purchasing authority to create optimal portfolios of contracts on behalf of customers. HB 6507 also coordinates with HB 6514 which assesses a tax on excess profits of generators, thereby either reducing the price of those generators in the first place or returning the excess profit to ratepayers. Finally HB 6507 is supported by HB 6510, which provides additional long-term financing for new, lower-cost, cleaner generation.

For all these reasons, I urge your support of HB 6507.

Jerrold Oppenheim has represented low-income and consumer advocacy groups on public utility and energy issues across the country and world for more than 35 years and is co-author of the book Democracy And Regulation.

A graduate of Harvard College and Boston College Law School, Mr. Oppenheim has held prominent positions in the Attorneys General offices in New York and Massachusetts. Earlier, he directed consumer and utility legal assistance programs in New York and Chicago, was the founding Director of Renewable Energy Technology Analysis at Pace University Law School, and directed the energy and telecommunications program at the National Consumer Law Center in Boston. He is a member of the Center for Public Utilities Advisory Council, New Mexico State University.

Mr. Oppenheim has worked with legislatures and public utility commissions in Massachusetts, Connecticut, New York, the District of Columbia, Illinois, Kentucky, Arkansas, New Mexico, Texas, and Utah to develop – in both restructured and traditional regulatory settings – consumer and low-income protections, service quality, and funding for low-income efficiency and affordability programs. Mr. Oppenheim led pioneering negotiations of efficiency agreements with the electric and gas utilities in Massachusetts. Mr. Oppenheim's work contributed to enactment by the Texas Legislature of the first statutory low-income electricity discount in the South, adoption by the Utah Public Service Commission of that state's first low-income electricity discount, and adoption by the New York Public Service Commission of that state's first broad-based low-income electricity discount..