Testimony of
PSEG Power Connecticut

Connecticut General Assembly
Committee on Energy and Technology
February 24, 2009

Raised Bill No. 6514, An Act Concerning Lowering Consumer Electric Costs and Supporting Energy Efficiency

Raised Bill No. 6510, An Act Establishing a Public Power Authority

Raised Bill No. 6512, An Act Concerning the Electric Contract Procurement Process

PSEG Power Connecticut appreciates the opportunity to provide the following comments to the Energy and Technology Committee of the Connecticut General Assembly on the legislation referenced above: Raised Bill No. 6514, An Act Concerning Lowering Consumer Electric Costs and Supporting Energy Efficiency; Raised Bill No. 6510, An Act Establishing a Public Power Authority; and Raised Bill No. 6512, An Act Concerning the Electric Contract Procurement Process.

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 (MW) of electric generating capacity.

PSEG Power Connecticut also is developing an additional 130 MW of new, state-of-the-art, gas-fired peaking generation at New Haven as a successful bidder under the Department of Public Utility Control (DPUC) Peaking Docket authorized by the General Assembly in Public Act 07-242. We expect this new generation to be on line before June, 2012.

We are proud to say we're a union company that employs approximately 160 men and women, (union and non- represented) in this State who work very hard to produce safe, reliable, and environmentally responsible supplies of energy. Our employees live here, work here, and face the same challenges that today's troubled economy presents to other residents.

PSEG Power Connecticut has committed well over $500 million to acquire and improve the efficiency and environmental performance of the existing Bridgeport and New Haven units and to build the new peaking generation. We are the largest taxpayer in the City of Bridgeport and among the largest in New Haven. Our annual expenditures for wages, benefits and goods and services are approximately $50-$60 million, exclusive of $3 million to $5 million for routine annual maintenance.

PSEG Energy Resources and Trade (PSEG ER&T), an affiliate that markets the energy and associated products of PSEG's electric generating fleet, currently has supply contracts totaling more than 350 megawatts with local distribution entities in New England, and will begin serving a portion of Connecticut Light and Power (CL&P) load requirements in the second quarter of this year. ER&T has been a frequent supplier to CL&P and United Illuminating (UI) since PSEG entered Connecticut in 2002. We were UI's exclusive supplier for three consecutive years through 2006.

We are also environmental leaders both in advocacy and action. We've reduced nitrogen oxide and sulfur dioxide emissions at our plants. We took an active and constructive role in helping Connecticut enact ground-breaking mercury emissions control legislation. We followed up on that by investing $170 million to install mercury emissions controls at our Bridgeport coal unit which became operational this summer.

PSEG Power Connecticut and its parent company supported the Regional Greenhouse Gas Initiative. We testified in support of Connecticut's global warming legislation enacted last year. We are a leading voice in the electric power industry for stringent national cap-and-trade legislation for carbon. And two weeks ago, Ralph Izzo, our chairman and chief executive officer, testified in support of a strong national Renewable Energy Portfolio Standard before the U.S. Senate's Energy and Natural Resources Committee.

PSEG Power Connecticut has made a significant commitment and a positive impact on this State's economy, energy infrastructure, environment, and regional electric system reliability. We continually look for constructive ways to increase this commitment through additional investment in traditional as well as renewable energy resources. In today's challenging financial and economic environment, this is a difficult task. The impact of the referenced legislation would make a difficult task just about impossible.

Our specific comments on the proposed legislation are as follows:

Raised Bill No. 6514

Raised Bill No. 6514 is another attempt to punish electric generators in this state by imposing a so-called "windfall profits tax."

Based on the legal infirmities of this concept alone, it is extremely doubtful this legislation would ever produce one dollar of additional revenue for the State of Connecticut.

The legislation would, however, seriously compromise any incentive to invest in the State's energy infrastructure; drive up the cost of credit and capital for companies considering investing here; and in the midst of some of the most uncertain and daunting economic conditions in memory, create even more uncertainty about whether to invest in Connecticut-based generation assets, or even in companies that own such assets.

As noted, there are serious and substantial legal and Constitutional issues apparent in the bill. The legislation violates the Constitution's Supremacy Clause because it would preempt powers and authority granted by Congress to the Federal Energy Commission in the Federal Power Act. It presents an undue preference violation of the Federal Power Act by exempting generators who sell power to in-state distribution companies. It violates the Constitution's Commerce Clause. And it violates the Eminent Domain Clause because its provisions amount to a seizing of the value of property without due compensation.

For the record, PSEG Power Connecticut is not earning windfall profits as defined by this legislation.

As you may be aware, both the 466-MW, oil-fired New Haven Harbor Generating Station and Bridgeport's 130-MW Unit 2, are operating under cost-based Reliability Must Run (RMR) contracts that extend through June, 2010. The approved rates provide for a 10.75% return on equity (ROE).

The economics of the 400-MW coal unit at Bridgeport Harbor station, which has been specifically targeted in previous versions of windfall profit tax legislation, have been stressed by a number of factors that include significant declines in wholesale power prices and significant increases in the cost of the ultra low-emissions coal used at the plant. The $170 million we recently invested for mercury emissions controls presents no risk or expense to ratepayers but it does reduce the overall ROE for the facility.

The new peaking generation at New Haven will operate on a cost-based contract with a regulated return based on the approved ROEs for the State's utilities.

A question often asked is, "If your company isn't earning extravagant profits, why do you care if a windfall profits tax is enacted?"

First, the legislation would impose costly and ill-defined compliance and financial reporting obligations across affiliate company lines that do not appear to comport with those in use anywhere else in the electric power industry.

Second, and perhaps most important to the economic well-being of this State, this legislation is bad energy policy and bad economic policy.

The message this legislation sends to electric generators is, don't bother improving your efficiency; don't bother lowering your costs, because if your balance sheet improves, the State may be coming after you. More important, though, the message this legislation sends to all businesses considering investing in Connecticut, is "Be Afraid. Be Very Afraid," because if you invest here and do well here, the State may be coming after you as well.

This bill, like previous incarnations, disregards the reality that Connecticut is part of an interconnected, regional energy market that, despite, lots of contrary rhetoric, has provided residents and ratepayers with significant benefits in terms of lower costs, improved reliability, and a cleaner environment. This bill, however well-intentioned its title, will not lower consumer electric costs and will not support energy efficiency.

Raised Bill No. 6510

Raised Bill No. 6510 would create a public power authority, called the Connecticut Electric Authority, charged with the responsibility to achieve a number of laudable goals, including promoting energy efficiency, developing and deploying new technologies, and promoting energy sustainability.

Currently these responsibilities reside across a number of state agencies, boards and advisory boards and there may, indeed, be merit in consolidating these functions under an umbrella agency or authority that could improve the coordination and implementation of energy policies. Governor Rell made a similar policy recommendation in her budget message.

This legislation, however, would also allow a state authority to finance, build, and operate electric generating facilities. This would expose the State and its residents to unwarranted and unnecessary credit and financial risk precisely at the wrong time.

The prospect of the State building and owning generating facilities raises important issues that should be carefully considered, including:

- The costs and responsibilities for these costs – associated with creating and operating a state authority.
- 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 generating 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.

There are many things that government does well. There is ample evidence, however, that public power authorities don't necessarily provide a better deal for consumers.

A report done in 2004 by the U.S. Government Accounting Office (GAO) highlighted considerable problems at the federal Bonneville Power Authority (BPA). The GAO reported that Bonneville's power sales operation lost more than $600 million in Fiscal years 2001 and 2002 and saw its cash reserves dwindle from more than $800 million to less than $200 million over this period. The report also identified further issues with BPA including poor oversight of resources, environmental concerns, and under investment in reliability, capacity, and safety.

Closer to Connecticut, the New York State Comptroller's Audit of the New York Power Authority (NYPA) in 2004 called NYPA "an agency adrift." The audit found that poor planning and major operational losses resulted in significant losses to the State. The audit noted that despite its financial advantages, "NYPA is expected to lose money in its New York City and Westchester markets," and that NYPA regularly failed to consider alternatives to generation self-build that would have resulted in dramatically lower costs. The audit concluded that NYPA's poor management and inaccurate cost estimate of several power projects totaled more than $500 million in additional costs.

Raised Bill No. 6512

After reviewing this legislation, we are unclear how the proposed transition away from the existing RFP process would work and how it would improve the procurement process for the State's electric distribution utilities. Currently, utilities procure their energy needs under a program developed and administered by the DPUC. All solicitations are ultimately reviewed by the agency to ensure that terms and conditions are in the best interests of ratepayers. We do note, and have strong concerns, about one provision in the bill that appears to allow sole source procurement without any form of competitive solicitation. This is antithetical to sound policy.

We would again urge the Legislature to examine wholesale procurement systems in other jurisdictions that produce good results. The Basic Generation Service (BGS) Auction in New Jersey is an example of a robust and highly competitive process in which the state's utilities obtain on an annual basis one-third of their energy and capacity requirements. The BGS auction is administered by the State Board of Public Utilities, which certifies auction results. The BGS auction completed last earlier this month delivered very competitive – and lower -- wholesale prices that will be reflected in retail rates later this year.