CBIA
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

Testimony of Kevin R. Hennessy
Staff Attorney
The Connecticut Business & Industry Association
Before the Energy & Technology Committee
March 16, 2010

My name is Kevin Hennessy. I am a staff attorney for the Connecticut Business and Industry Association (hereinafter "CBIA"). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. Approximately 90 percent of our member companies have fewer than 50 employees. All of our members are energy consumers and rely on electricity for their respective day-to-day operations.

Thank you for the opportunity to comment on the following bills:

- **HB 5505,** *AAC Electric Rate Relief;*
- **HB 5508,** *AA Establishing the Division of Electricity Policy and Procurement;*
- **SB 460,** *AAC Low-Income Energy Rates; and*
- **HB 5507,** *AAC Consumer Protections in the Retail Electricity Market.*

CBIA is a proponent of reducing everyone's electric rates. However, we strongly believe that three of the bills listed above are not the means to lower rates. **HB 5505** and **HB 5508** give us a theoretical, unproven approach as a way to reduce Connecticut's electric rates by creating a new state entity – an Energy Authority or Division of Electricity Policy and Procurement. **SB 460** will reduce electric rates for low-income customers but will increase electric rates for every other customer class. The final bill, **HB 5507** makes modifications to Connecticut's competitive electric market.

350 Church Street • Hartford, CT 06103-1126 • Phone: 860-244-1900 • Fax: 860-278-8562 • cbia.com

HB 5505, *AAC Electric Rate Relief*:

CBIA was pleased be to be invited to participate in Speaker Donovan's Electric Rate Relief Working Group ("the Working Group.") The diverse group, comprised of some of the energy industry stakeholders, came up with numerous recommendations incorporated in **HB 5505**, *AAC Electric Rate Relief*. For reference, CBIA's recommendations from the Working Group are attached herein as Exhibit A. Unfortunately, CBIA opposes many of the recommendations in **HB 5505**, *AAC Electric Rate Relief*. CBIA believes that many of the proposals will have a negative impact on Connecticut's energy landscape and more importantly, its ratepayers.

Section 1 – This section calls for the Department of Public Utility Control ("DPUC") to conduct a proceeding regarding the development of discounted gas and electric rates for low-income customers. Specifically, it would create discounted rates for service provided by gas and electric distribution companies to low-income customers. The cost of the discounted rate would be shifted to *all other customers* via the system benefits charge on electric bills and the public benefits charge on gas bills.

CBIA is sympathetic to low-income customers' needs. In fact, CBIA is supportive of the various state and federal programs that aid low-income customers. However, creating a new rate classification for the benefit of low-income customers at the expense of *all other ratepayers* is not sound policy.

Currently, Connecticut's businesses are saddled with some of the highest business costs in the country[1]. Adding to Connecticut's already high energy costs will make Connecticut businesses less competitive.

Hurting Connecticut businesses hurts everyone in Connecticut. Increased costs mean decreased investment in both capital projects and personnel. In order for Connecticut to rebound from the current global recession, it has to position itself to create jobs and wealth. Adding higher costs for Connecticut businesses will make it harder for them to compete.

Shifting the cost of energy from one class of consumer to another does not address the underlying problem of high energy rates. It simply shifts the cost burden, which, ultimately, will hurt everyone in Connecticut.

Section 2 – This section adds a charge per kilowatt hour sold to each end use customer of an electric supplier to be used by the DPUC to expand its educational programs.

[1] 5th Highest according to Forbes Magazine; 3rd Highest according to CNBC study, 2008; 4th Highest according to Moodys/Economy.com study, 2008; and 5th highest according to the Milken Institute, 2008.

CBIA opposes this measure because it will increase rates for customers choosing the competitive market and an electric supplier but not customers who opt for Standard Service or Supplier of Last Resort service from the utilities. Educational programs are important, but they should not solely be financed by increased rates for certain customers.

Sections 4 – 28 – These sections create a quasi-public agency known as the "Connecticut Electric Authority" ("the Electric Authority"). Purportedly, the Electric Authority would coordinate the state's electric needs and procure power for customers who do not choose a competitive supplier. Additionally, the Electric Authority would have the ability to own and operate electric generation.

CBIA strongly opposes creating an Electric Authority. The roles designated for the Electric Authority are better accomplished by the electric distribution companies, under the regulation of the DPUC, the DPUC and private electric generators. Adding bureaucracy is not what Connecticut's electric customers want or need.

In January, 2009, CBIA commissioned Zogby International to conduct a poll of Connecticut citizens. Of the 600+ respondents, 66% believe the state should save money by concentrating on its core functions (such as education and public safety) and not expand its operations (by procuring electricity for the private sector).

Connecticut citizens, like businesses, want affordable and reliable power. However, Connecticut businesses know that a state run authority is not likely to provide this. 84% of the respondents to CBIA's 2009 Annual Membership Survey do not want Connecticut to create a "Power Authority."[2]

What's more, the Electric Authority appears to have some significant expenses associated with it. For instance, the Electric Authority may own and operate electric power plants and provide financial assistance to encourage the development of electric generation facilities. The Electric Authority is also authorized to have an executive director and hire personnel. It can also borrow money and issue bonds.

According to Connecticut's non-partisan Office of Fiscal Analysis, Connecticut faces a $535.5 million deficit in fiscal year 2010. In fiscal year 2011, the deficit escalates to $725.7 million. By fiscal year 2012, the deficit balloons to $3.8 billion. Given the state's disastrous fiscal situation it would be irresponsible to expand the size and cost of state government by creating an Electric Authority.

[2] http://www5.cbia.com/newsroom/wp-content/uploads/2010/01/2009membershipsurvey3.pdf

Section 30 (k)(1)(D)(5) – States that any customer that is receiving electric generation service from an electric distribution company pursuant to standard service may not for a period of two years switch to another participating electric supplier or return to standard service without the imposition of additional charges by the electric distribution company.

CBIA is opposed to the two year delay to allow customers to choose their electric generation provider. Additionally, CBIA is confused by the language that would impose additional charges to customers returning to standard service. Section 30(k)(1)(D)(5) refers to standard service customers of electric distribution companies. It's unclear how a standard service customer could return to standard service unless they chose a competitive supplier and came back. However, the bill does not say that.

Section 31 – allows municipalities to engage in performance contracting for energy efficiency. CBIA supports performance contracting for energy efficiency projects and is pleased to see it codified in the proposed bill.

Section 33 – Requires the DPUC to review the current renewable energy portfolio standards to ensure that an appropriate level of power is being purchased from renewable sources.

CBIA's recollection is that the Working Group discussed Connecticut's ambitious Renewable Portfolio Standards and had discussions regarding what the cost implications of meeting those goals will be. This is really a policy issue that needs to be revisited. Can Connecticut's ratepayers afford the current Renewable Portfolio Standard goals?

Section 36 – Creates a quarterly tax of fifty per cent upon "windfall profits" of electric generators that have revenue in excess of twenty per cent return on equity as classified by the Federal Energy Regulatory Commission ("FERC").

This proposal would make Connecticut the only state in the nation to tax private energy companies' profits. As if the "windfall profits" tax wasn't bad enough, the proposed bill would include under the tax "any affiliates or subsidiaries of such company, whether those affiliates or subsidiaries are located within the state or outside the sate." This sends a terrible message to businesses and potential investors that Connecticut is anti-business.

Enacting a windfall profits tax on electric generators will discourage potential investment in Connecticut. While our generation needs are currently adequate, what happens when plants retire, our demand increases or generators decide to leave Connecticut in order to escape the only "windfall profits" tax in the country? This policy will dissuade companies from investing in Connecticut which will harm us in terms of reduced economic development impact and increased electric rates.

CBIA

CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

In November, 2007, CBIA commissioned Zogby International to conduct a poll of Connecticut citizens. Of the 600+ respondents, 98% thought it was important for businesses to earn a profit. Moreover, of those polled, only 22% believed that Connecticut businesses made too much of a profit. Contrary to popular belief, Connecticut citizens told us that profits are good and necessary.

Adopting a "windfall profits" tax on electric generators is bad public policy and it will increase electric rates. Generators incorporate all costs, including taxes, into their market prices. This policy will dissuade electric generators from doing business in Connecticut and increase electric rates - two outcomes Connecticut can not afford.

350 Church Street • Hartford, CT 06103-1126 • Phone: 860-244-1900 • Fax: 860-278-8562 • cbia.com

EXHIBIT A

Memorandum

To: Speaker Donovan's Electricity Rate Relief Working Group

From: Kevin R. Hennessy, Staff Attorney

Date: 3/14/2010

Re: Energy Policy Recommendations

My name is Kevin Hennessy. I am a staff attorney for the Connecticut Business and Industry Association (hereinafter "CBIA"). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. Approximately 90 percent of our member companies have fewer than 50 employees. All of our members are energy consumers and rely on electricity for their respective day-to-day operations.

CBIA is a proponent of reducing everyone's electric rates. The following are CBIA's *Energy Policy Recommendations* that will benefit Connecticut ratepayers the most:

1. **Competition and Innovation & Technology**

   a. **Retain and Increase Competition**

      i. **Electric Choice** – 97% of the respondents to CBIA's 2009 Annual Membership Survey want consumers to have the ability to choose their electric supplier.[1] Currently, approximately 90% of large industrial users have a competitive supplier, 50% of commercial and smaller industrial users have a competitive supplier and 15% of residential customers have a competitive supplier.[2] Together, these numbers represent approximately 54% of the energy load in Connecticut. Customers like having competitive choice because it allows them to save money potentially and decrease electric rate volatility.

      ii. **Competitive Market Oversight** – Increased competition is a good thing for Connecticut ratepayers. Even though CBIA supports a competitive electric market, we understand that regulatory

---

[1] http://www5.cbia.com/newsroom/wp-content/uploads/2010/01/2009membershipsurvey3.pdf

[2] http://www.dpuc.state.ct.us/electric.nsf/22bd353cdb8843d985257615005b5bcc/4d19e927ef8972d285257616005c73bf?OpenDocument

oversight is still needed. Currently, aggregators are required to register with the DPUC and suppliers are required to be licensed. The meanings of aggregator and supplier are confusing for some customers. Additionally, clarifications between what it means to be licensed versus registered are needed. These clarifications will help protect ratepayers if they need to pursue recourse via due process.

b. Encourage Innovation & Technology

i. Connecticut energy policy should continue to encourage innovation and technology. Innovation and technology help consumers manage their energy use. Managing energy use is the best way to control the cost of energy. One example stems from P.A. 07-242 where the state mandated smart metering. Results from CL&P's Plan-it Wise pilot program are out and it was a positive experience for ratepayers.[3] Customers had more choice and control, they lowered overall system costs, they increased conservation and they decreased carbon emissions. Connecticut policymakers and regulators should be ready and willing to implement new technologies that benefit ratepayers.

2. Energy Efficiency and Clean Energy

a. **Efficiency** – Energy efficiency is another way that ratepayers can manage their energy use and decrease their overall energy costs. Connecticut's energy efficiency programs have been recognized as some of the best in the country.[4] In order for Connecticut to improve its programs and overall energy efficiency of the state, it is important that the Connecticut Energy Efficiency Fund ratepayer dollars are not usurped for purposes other than for which the fund was created.

b. **Clean Energy** – Clean and renewable energy is important for economic, environmental and security reasons. It is important that the Connecticut Clean Energy Fund ratepayer dollars are not usurped for purposes other than for which the fund was created.

3. Reliability

a. **Upgrade Energy Infrastructure –** Two prominent transmission upgrade projects were recently completed in Southwest Connecticut, the Middletown to Norwalk line and the Bethel to Norwalk line. Additionally, the New England East West Solution (NEEWS) project will

---

[3] http://nuwnotes1.nu.com/apps/clp/clpwebcontent.nsf/AR/PlanItWise/$File/Plan-it%20Wise%20Pilot%20Results.pdf

[4] http://www.aceee.org/press/e097pr.htm

positively impact Connecticut. Transmission upgrades benefit everyone by enhancing electric reliability, connecting customers to more competitively priced and clean energy and reducing or eliminating millions of dollars paid for federally mandated congestion charges. Connecticut should support and site necessary infrastructure improvement projects.

4. **Generation**

   a. **Increase and Diversify Connecticut's Power Supply** – Encouraging new and diverse resources for electric generation is beneficial to Connecticut ratepayers. There are economic development impacts that are good for Connecticut and there are electric price impacts that are good for ratepayers. A diverse power supply helps shield ratepayers from volatility in any one resource. Connecticut should adopt policies that will encourage investment in electric generation.

5. **Review Existing Policy/Statutes**

   a. **Policy**

      i. **Procurement** – The first meeting of the Speaker's Electricity Rate Relief Working Group focused heavily on the current procurement process for the electric distribution companies. Laddered procurement, over longer time frames, was chosen to protect standard service ratepayers from large spikes in electric costs. Unfortunately, they also prevent large decreases in electric rates. Given the recent discovery of the approximate 100 year supply of natural gas from the Marcellus Shale Field, now is a good time to review the procurement policies for the electric distribution companies and determine if they can be adjusted to benefit ratepayers.

   b. **Statutes** – Two examples of statutes that could be reviewed:

      i. **Nuclear** – C.G.S. Sec. 22a-136 states that no construction shall commence on a fifth nuclear power facility until the DEP Commissioner finds that the US federal government has the means of disposing high level nuclear waste.

      ii. **Renewable Portfolio Standards** – C.G.S. Sec. 16-245a lays out Connecticut's aggressive renewable energy portfolio standards. They culminate with the requirement that 20% of any Connecticut

EXHIBIT A

supplier or Distribution Company's total output or services shall be generated from Class I renewable sources by 2020.

Thank you for the opportunity to present CBIA's *Energy Policy Recommendations*. I look forward to working with members of the Energy & Technology committee, and others, to implement them. Please do not hesitate to contact me with any comments or questions.

KH

HB 5508, *AA Establishing the Division of Electricity Policy and Procurement:*

HB 5508 appears to be the back-up plan in case the Connecticut Energy Authority is not created under **HB 5505**. **HB 5508** creates a Division of Electricity Policy and Procurement ("the Division") within the Department of Public Utility Control ("DPUC"). The Division would purportedly coordinate the state's electric needs and procure power for customers who do not choose a competitive supplier and own and operate electric generation.

CBIA strongly opposes **5508**. The roles designated for the Division are better accomplished by the electric distribution companies, under the regulation of the DPUC, the DPUC and private electric generators. Adding bureaucracy is not what Connecticut electric customers want or need.

In January, 2009, CBIA commissioned Zogby International to conduct a poll of Connecticut citizens. Of the 600+ respondents, 66% believe the state should save money by concentrating on its core functions (such as education and public safety) and not expand its operations (by procuring electricity for the private sector).

Connecticut citizens, like businesses, want affordable and reliable power. However, Connecticut businesses know that a state run authority is not likely to provide this. 84% of the respondents to CBIA's 2009 Annual Membership Survey do not want Connecticut to create a "Power Authority." [1]

What's more, the Division appears to have some significant expenses associated with it. For instance, the Division may own and operate electric power plants and provide financial assistance to encourage the development of electric generation facilities. The Division is also authorized to have an executive director and hire personnel. It can also borrow money and issue bonds.

According to Connecticut's non-partisan Office of Fiscal Analysis, Connecticut faces a $535.5 Million deficit in fiscal year 2010. In fiscal year 2011, the deficit escalates to $725.7 million. By fiscal year 2012, the deficit balloons to $3.8 billion. Given the state's disastrous fiscal situation it would be irresponsible to expand the size and cost of state government by creating a Division of Electricity Policy and Procurement.

[1] http://www5.cbia.com/newsroom/wp-content/uploads/2010/01/2009membershipsurvey3.pdf

CBIA

CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

SB 460, *AAC Low-Income Energy Rates*:

This bill calls for the Department of Public Utility Control ("DPUC") to conduct a proceeding regarding the development of discounted gas and electric rates for low-income customers. Specifically, it would create discounted rates for service provided by gas and electric distribution companies to low-income customers. The cost of the discounted rate would be shifted to *all other customers* via the system benefits charge on electric bills and the public benefits charge on gas bills.

CBIA is sympathetic to low-income customers' needs. In fact, CBIA is supportive of the various state and federal programs that aid low-income customers. However, creating a new rate classification for the benefit of low-income customers at the expense of *all other ratepayers* is not sound policy.

Currently, Connecticut's businesses are saddled with some of the highest business costs in the country.[1] Adding to Connecticut's already high energy costs will make Connecticut businesses less competitive.

Hurting Connecticut businesses hurts everyone in Connecticut. Increased costs mean decreased investment in both capital projects and personnel. In order for Connecticut to rebound from the current global recession, it has to position itself to create jobs and wealth. Adding higher costs for Connecticut businesses will make it harder for them to compete.

Shifting the cost of energy from one class of consumer to another does not address the underlying problem of high energy rates. It simply shifts the cost burden, which, ultimately, will hurt everyone in Connecticut.

---

[1] 5th Highest according to Forbes Magazine; 3rd Highest according to CNBC study, 2008; 4th Highest according to Moodys/Economy.com study, 2008; and 5th highest according to the Milken Institute, 2008.

350 Church Street • Hartford, CT 06103-1126 • Phone: 860-244-1900 • Fax: 860-278-8562 • cbia.com

CBIA

CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

HB 5507, *AAC Consumer Protections in the Retail Electricity Market*:

HB 5507 eliminates the requirement that electric distribution companies maintain a referral service for competitive electric suppliers or bill customers of competitive electric suppliers. The proposal also clarifies the definitions of electric suppliers, aggregators and brokers and requires electric brokers to register with the Department of Public Utility Control ("DPUC").

97% of the respondents to CBIA's 2009 Annual Membership Survey want consumers to have the ability to choose their electric supplier.[1] Currently, approximately 90% of large industrial users have a competitive supplier, 50% of commercial and smaller industrial users have a competitive supplier and 15% of residential customers have a competitive supplier.[2] Together, these numbers represent approximately 54% of the energy load in Connecticut. Customers like having competitive choice because it allows them to save money potentially and decrease electric rate volatility.

It is unclear what impact eliminating the electric distribution companies' requirement of maintaining a referral service for competitive suppliers and providing bill services for customers of electric suppliers will have on the marketplace. If this suppresses the thriving and growing competitive marketplace, CBIA opposes these measures.

Increased competition is a good thing for Connecticut ratepayers. Even though CBIA supports a competitive electric market, we understand that regulatory oversight is needed. **HB 5507** clarifies the definitions of electric suppliers, aggregators and brokers.

Currently, aggregators are required to register with the DPUC and suppliers are required to be licensed. This bill requires that electric brokers register with the DPUC too. This added oversight is good for consumers. It creates a clear path of due process for consumers to pursue, via the DPUC, if they feel that electric suppliers, aggregators or brokers were bad actors in the market and harmed their interests.

---

[1] http://www5.cbia.com/newsroom/wp-content/uploads/2010/01/2009membershipsurvey3.pdf
[2] http://www.dpuc.state.ct.us/electric.nsf/22bd353cdb8843d985257615005b5bcc/4d19e927ef8972d2852576 16005c73bf?OpenDocument

350 Church Street • Hartford, CT 06103-1126 • Phone: 860-244-1900 • Fax: 860-278-8562 • cbia.com