



**Connecticut
Light & Power**

The Northeast Utilities System



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TESTIMONY OF
THE CONNECTICUT LIGHT AND POWER COMPANY
and YANKEE GAS SERVICES COMPANY
Energy and Technology Committee—Feb.23 2010

H.B. No. 5213_AAC *The Siting Council*

This bill would introduce a new and unique sanction process as part of the procedure to be applied by the Siting Council in considering applications and petitions. In 1971, the General Assembly adopted the Uniform Administrative Procedure Act in order to provide fair and uniform procedures for contested cases before all state agencies. Any procedural change such as that proposed by this bill should be to the UAPA, and not applicable only to a single agency.

The provisions of the bill are, however, inconsistent with the aims of the UAPA, because the bill would not contribute to the streamlining and simplification of administrative procedures. To the contrary, it would complicate the administrative process by encouraging sideshow litigation concerning whether or not isolated statements in submissions to the Council are correct or complete. At first blush, one might question why anyone should oppose levying monetary sanctions up to \$10,000 for making any misstatements of fact or material omissions. But consider that Siting Council proceedings involve applications running to thousands of pages of technical data, and that it is common for applicants to spot mistakes or data that has become outdated, or to discover new data in the course of proceedings. In these cases, the mistakes are corrected and the new data is submitted by supplemental filings or testimony. According to the bill, an applicant would be exposing itself to stiff sanctions every time it made such a correction or supplement - and particularly if an opposing party or intervener spotted the mistake first.

Of course, innocent mistakes may not be sanctioned. But they could in any case draw motions for sanctions from determined opponents - resulting in multiple time-wasting hearings that devour scarce resources of a busy agency composed of part time members.

The bill is also unbalanced. It would provide for sanctions for misstatements by applicants or petitioners, without any counterpart for misstatements or omissions made by other parties or interveners.

Finally, the bill is completely unnecessary. If an applicant makes serious misstatements or omissions, which are discovered during proceedings before it, the Council will take them into account in its ruling and can deny the application or petition - the ultimate sanction. If a serious deliberate misstatement is not discovered until after a certificate or other decision is issued, the proceeding can be re-opened for changed circumstances and a prior favorable decision can be reversed. Significantly, this authority for opening and revising the decision is in the Uniform Administrative Procedure Act (Conn. Gen. Stats. § 4-181a), and thus is already available to all agencies.

Thank you for the opportunity to present testimony on this bill.