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**Testimony of Shirley Bergert<sup>1</sup>  
Before the Energy & Technology Committee  
Regarding House Bill #6544  
An Act Concerning Energy Efficiency  
March 8, 2011**

Connecticut Legal Services serves low income households in Connecticut. These are our vulnerable neighbors at greatest risk in affording and maintaining necessary utility and energy services.

**Recommended action:**  
**Sec. 2: Support requirement of disclosure of heat costs in rental housing and expand to the costs of all energy costs**  
**Sec. 4: Modify conservation program evaluation provisions**  
(substitute language provided at end of testimony)

**Section 2 – Landlord disclosure of energy expenses to prospective tenants:** As drafted, prior to entering a lease this section requires that landlords disclose to potential tenants the prior two years of heating expenses for any rental unit where a tenant has liability for such costs.

**Energy expenses are a critical part of determining the affordability of shelter, and affordability is a key to housing stability for low income families. Heating expenses are only part of the affordability picture. The costs for non-heat energy (non-heat electricity or gas, hot water or running water) are also critical and landlords also should be required to disclose these expenses.**

To allow landlords to provide accurate information to prospective tenants, it may be necessary for landlords to begin including lease provisions requiring tenants to identify their energy providers (a potential issue with deliverable fuel, not utility service) and to obtain authorizations from tenants to access consumption and billing information from any energy source serving the dwelling. It will not be necessary to access payment histories or indebtedness so consumption/expense information will only minimally impinge on privacy.

In addition to allowing a potential tenant to ascertain the real affordability of the dwelling, disclosure of energy expenses to be incurred by tenants will encourage conservation in a competitive rental market.

<sup>1</sup> Member of the Energy Conservation Management Board, Low Income Energy Advisory Board, Fuel Oil Conservation Board, and the Advisory Board for the Institute for Sustainable Energy.



**Section 4 – Evaluation of utility ratepayer conservation programs:** The Office of Consumer Counsel and legal services developed substitute language (at end of testimony) to **keep utility ratepayer evaluations under the watchful control of the** Energy Conservation Management Board (known popularly as the Energy Efficiency Board or EEB), **limiting the ability of utility program administrators to interfere in such evaluations.** An independent evaluation process is critical to determining if funds are expended in the most effective way possible and it increases public confidence in the investment of ratepayer dollars. Because of interference in evaluations by utility administrators of the conservation programs, the DPUC recently ordered a more independent process under the EEB. The bill draft moves evaluation of utility rate-payer conservation programs to the DPUC – this would not result in the most effective process as the DPUC does not have staff with the appropriate expertise while the EEB has an experienced evaluation consultant on retainer. Our substitute language keeps the evaluation process under EEB control:

- minimizing the influence of utility administrators on evaluation processes and reports – the utilities stand to gain financially from positive program evaluations.
- creating transparent process that acts as a check on efforts to unduly influence evaluations.
- ensuring the independent evaluation consultant has control of the process, avoiding delays that may result from interference in the process.
- providing all interested parties with a cost-effective opportunity to question evaluation results to ensure accuracy.

**Suggested substitute language for subsection (d)(3) through (d)(5) of Conn. Gen. Stat. Sec. 16-245m (lines 115-235 of H.B. 6544) [highlighting shows changes from existing law]:**

(d)(3) Programs included in the plan developed under subdivision (1) of this subsection shall be screened through cost-effectiveness testing which compares the value and payback period of program benefits to program costs to ensure that programs are designed to obtain energy savings and system benefits, including mitigation of federally mandated congestion charges, whose value is greater than the costs of the programs. [Cost-effectiveness testing shall utilize available information obtained from real-time monitoring systems to ensure accurate validation and verification of energy use. Such testing shall include an analysis of the effects of investments on increasing the state's load factor.] Program cost-effectiveness shall be reviewed annually, or otherwise as is practicable, using multiple cost and benefit analyses. If a program is determined to fail the cost-effectiveness test as part of the review process, it shall either be modified to meet the test or shall be terminated. On or before March 1, 2005, and on or before March first annually thereafter, the board shall provide a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to energy and the environment (A) that documents expenditures and fund balances and evaluates the cost-effectiveness of such programs conducted in the preceding year, and (B) that documents the extent to and manner in which the programs of such board collaborated and cooperated with programs, established under section 7-233y, of municipal electric energy cooperatives. To maximize the reduction of federally mandated congestion charges, programs in the plan may allow for disproportionate allocations between the amount of contributions to the Energy Conservation and Load Management Funds by a certain rate class and the programs that

benefit such a rate class. Before conducting such evaluation, the board shall consult with the Renewable Energy Investments Board. The report shall include a description of the activities undertaken during the reporting period jointly or in collaboration with the Renewable Energy Investment Fund established pursuant to subsection (c) of section 16-245n.

(4) (NEW) The Energy Conservation Management Board shall adopt an independent, comprehensive program evaluation, measurement and verification process to ensure its programs are administered appropriately and efficiently, programs comply with statutory requirements, programs and measures are cost effective, evaluation reports are accurate and issued in a timely manner, evaluation results are appropriately and accurately taken into account in program development and implementation, and to provide information necessary to meet any third-party evaluation requirements. An annual schedule and budget for evaluations as determined by the board shall be included in the plan filed with the department pursuant to subsection (d)(1) of this section. The electric distribution and gas company representatives and the representative of a municipal electric energy cooperative may not vote on board plans, budgets, recommendations, actions or decisions regarding such process or its program evaluations and their implementation. Program and measure evaluation, measurement and verification shall be conducted on an ongoing basis, with emphasis on impact and process evaluations, programs or measures which have not been studied, and those which account for a relatively high percentage of program spending. Evaluations shall utilize statistically valid monitoring and data collection techniques appropriate for the programs or measures being evaluated. Impact evaluations shall utilize information obtained from a sampling of program participants utilizing either real-time monitoring systems or billing analyses, whichever is most appropriate for the measure or program being studied, to ensure accurate validation and verification of energy use and effects on the state's load factor. All evaluations shall contain a description of any problems encountered in the process of the evaluation, including data collection issues, and recommendations regarding addressing those problems in future evaluations. The board shall contract with one or more consultants not affiliated with the board members to act as an evaluation administrator, advising the board regarding development of a schedule and plans for evaluations and overseeing the program evaluation, measurement and verification process on behalf of the board. Consistent with board processes and approvals and Department of Public Utility Control decisions regarding evaluation, such evaluation administrator shall implement the evaluation process by preparing requests for proposals and selecting evaluation contractors to perform program and measure evaluations, and by facilitating communications between evaluation contractors and program administrators to ensure accurate and independent evaluations. In the evaluation administrator's discretion and at his request, the electric distribution companies and gas companies shall communicate with the evaluation administrator for purposes of data collection, vendor contract administration, and to provide necessary factual information during the course of evaluations. The evaluation administrator shall bring unresolved administrative issues or problems that arise during the course of an evaluation to the board for resolution, but shall have sole authority regarding substantive and implementation decisions regarding any evaluation. Board members, including electric distribution companies and gas companies, may not communicate with an evaluation contractor about an ongoing

evaluation except with the express permission of the evaluation administrator which may only be granted if the administrator believes the communication will not compromise the independence of the evaluation. The evaluation administrator shall file evaluation reports with the board and with the department in its most recent uncontested proceeding pursuant to subsection (d)(1) of this section and the board shall post a copy of each report on its website. The board and its members, including electric distribution companies and gas companies, may file written comments regarding any evaluation with the department or for posting on the board's website. Within ten days of the filing of any evaluation report, the department shall issue a notice to parties and participants in the most recent uncontested proceeding pursuant to subsection (d)(1) of this section and to all board members that board members have ten days from the notice in which to request in writing that the department conduct a transcribed technical meeting to review the methodology, results and recommendations in any evaluation. Such technical meeting shall be scheduled to immediately follow a public presentation by the evaluation administrator of the evaluation report on a date mutually arranged between the evaluation administrator and the department. At the request of the department or any board member, the evaluation administrator and the evaluation contractor shall be available for examination at the technical meeting. Examination of such administrator and contractor shall be limited to a department proceeding not to exceed six hours on the date of the public presentation, with up to a total of two hours of examination by the board and its members including the electric distribution and gas company members but excluding the Office of Consumer Counsel, up to two hours by the department, and up to two hours by the Office of Consumer Counsel. The cost of the evaluation administrator and evaluation contractors shall be paid by the fund.

~~[(4)]~~ (5) Programs included in the plan developed under subdivision (1) of this subsection may include, but not be limited to: (A) Conservation and load management programs, including programs that benefit low-income individuals; (B) research, development and commercialization of products or processes which are more energy-efficient than those generally available; (C) development of markets for such products and processes; (D) support for energy use assessment, real-time monitoring systems, engineering studies and services related to new construction or major building renovation; (E) the design, manufacture, commercialization and purchase of energy-efficient appliances and heating, air conditioning and lighting devices; (F) program planning and evaluation; (G) indoor air quality programs relating to energy conservation; (H) joint fuel conservation initiatives programs targeted at reducing consumption of more than one fuel resource; (I) public education regarding conservation; and (J) the demand-side technology programs recommended by the procurement plan approved by the Department of Public Utility Control pursuant to section 16a-3a. Such support may be by direct funding, manufacturers' rebates, sale price and loan subsidies, leases and promotional and educational activities. The plan shall also provide for expenditures by the Energy Conservation Management Board for the retention of expert consultants and reasonable administrative costs provided such consultants shall not be employed by, or have any contractual relationship with, an electric distribution company, gas company or municipal electric energy cooperative. Such costs shall not exceed five per cent of the total revenue collected from the assessment.