

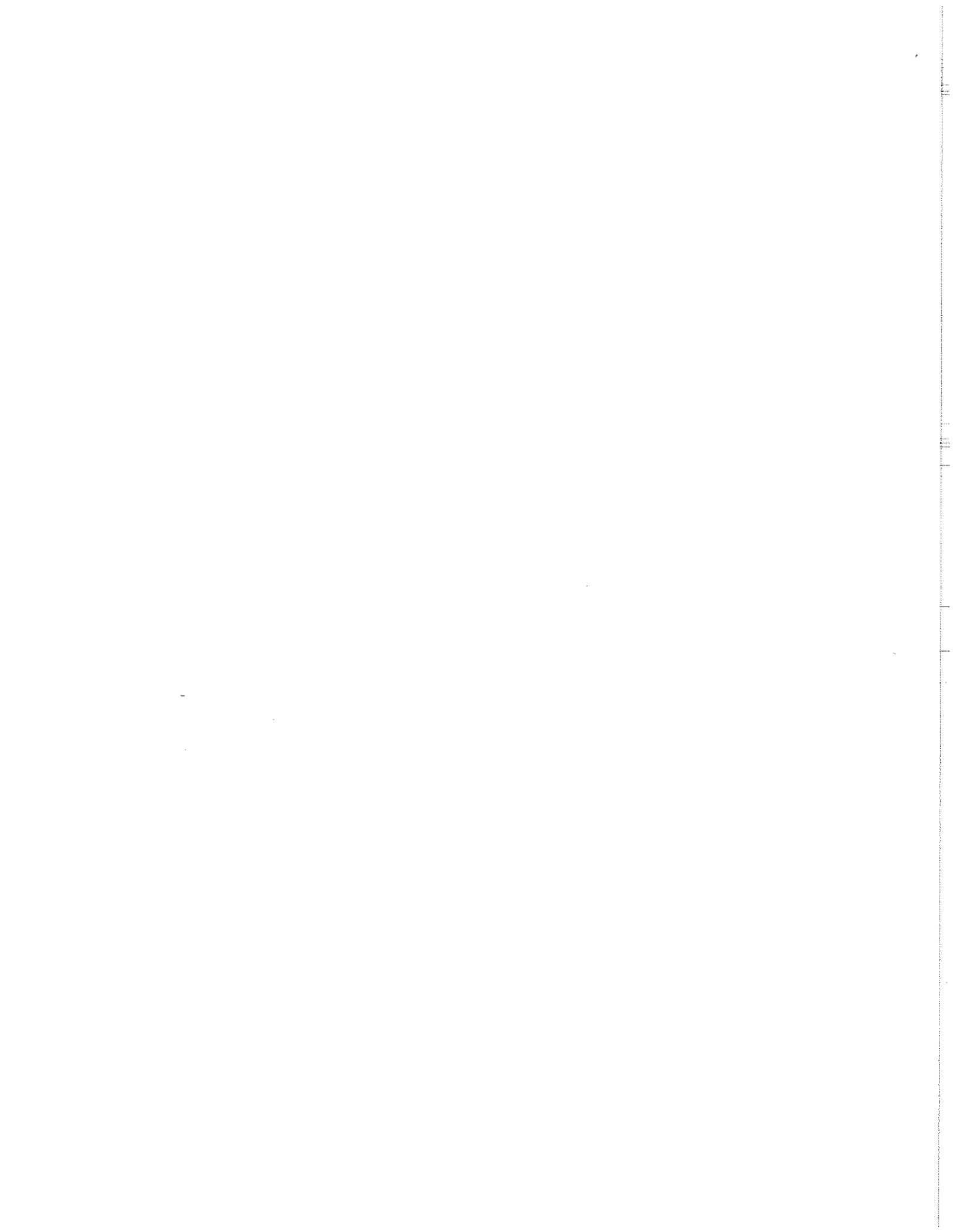
**STATE OF CONNECTICUT
ENERGY & TECHNOLOGY COMMITTEE**

Committee Bill No. 1 – An Act Concerning Connecticut's Energy Future

**PUBLIC HEARING TESTIMONY OF
JAMES S. SCHNEIDER
ON BEHALF OF
KIMBERLY-CLARK CORPORATION**

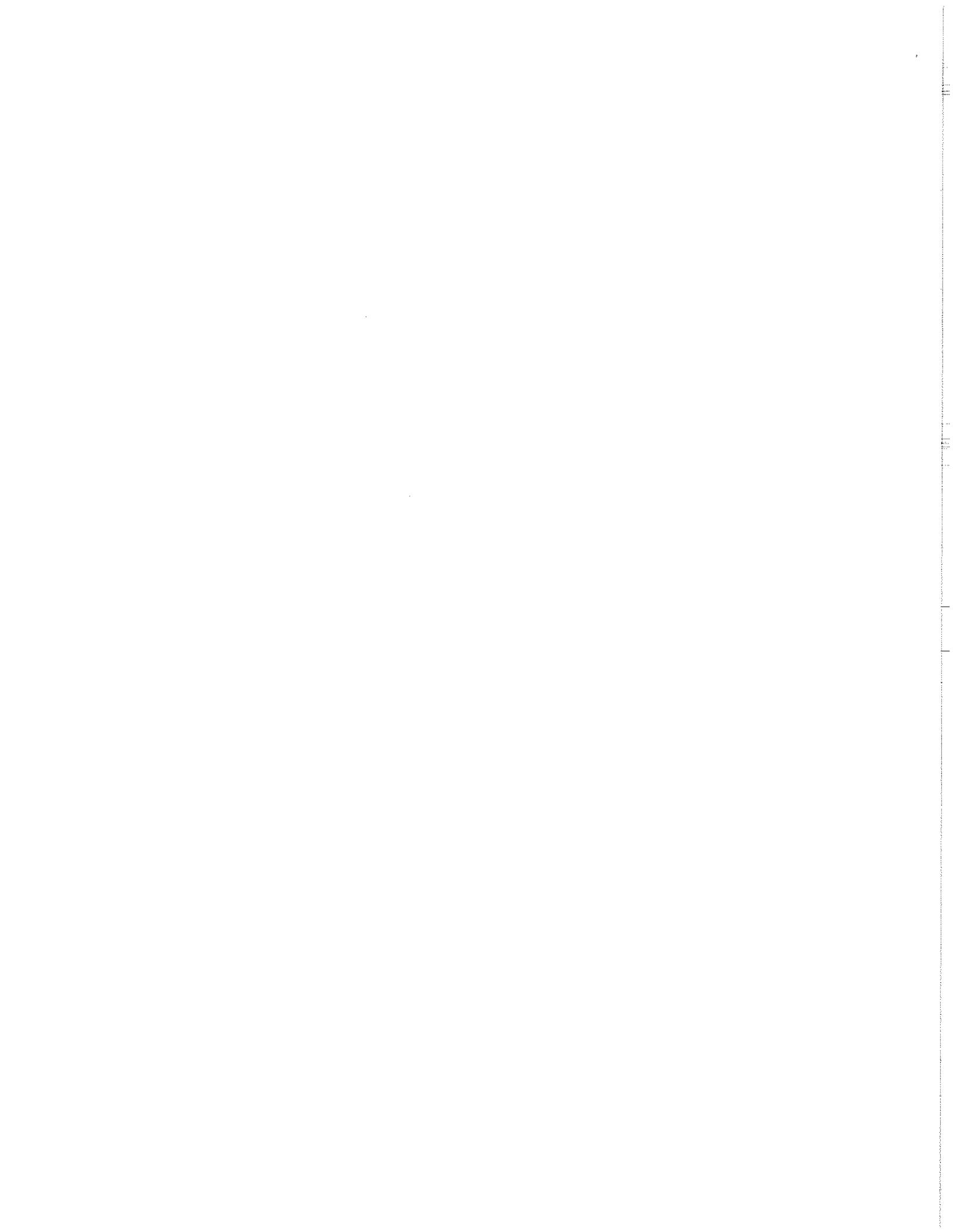
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March 15, 2011



Kimberly-Clark Corporation ("K-C") appreciates this opportunity to offer comments on Committee Bill No. 1 ("Bill 1"). Bill 1 contains important provisions that relate to Public Act No. 05-01 ("Act 05-01") and Public Act No. 07-242 (collectively referred to as "Energy Independence Laws"), including the functioning of the Class III administrative program established by those laws. Connecticut's Class III program was designed to advance the development and retention of environmentally preferred resources in Connecticut, including capital-intensive Combined Heat and Power ("CHP") systems. By reducing barriers to entry for customer-side distributed resources, such as highly efficient CHP systems, the Energy Independence Laws were formative pieces of legislation that not only enabled many Connecticut employers, like K-C, to remain in Connecticut but also afford ratepayer benefit through such energy-intensive businesses' investment in the State's energy infrastructure at a fraction of the price of traditional rate-based generation.

K-C generally supports Bill No. 1 but offers comments on certain aspects of the proposed legislation, particularly with respect to the Class III program. As this Committee is aware, K-C was encouraged by Act 05-01 to develop and construct a 35 MW CHP system, which qualifies as a Class III resource, at K-C's New Milford Mill. The mill is proud to employ more than 300 people with family-sustaining wages. The CHP system meets all of the mill's electric and thermal power needs and generates excess electricity that is available to export to the grid in highly congested Southwest Connecticut for the benefit of Connecticut ratepayers. K-C relied upon the Class III program, among other incentives made available in Act 05-01, to support its

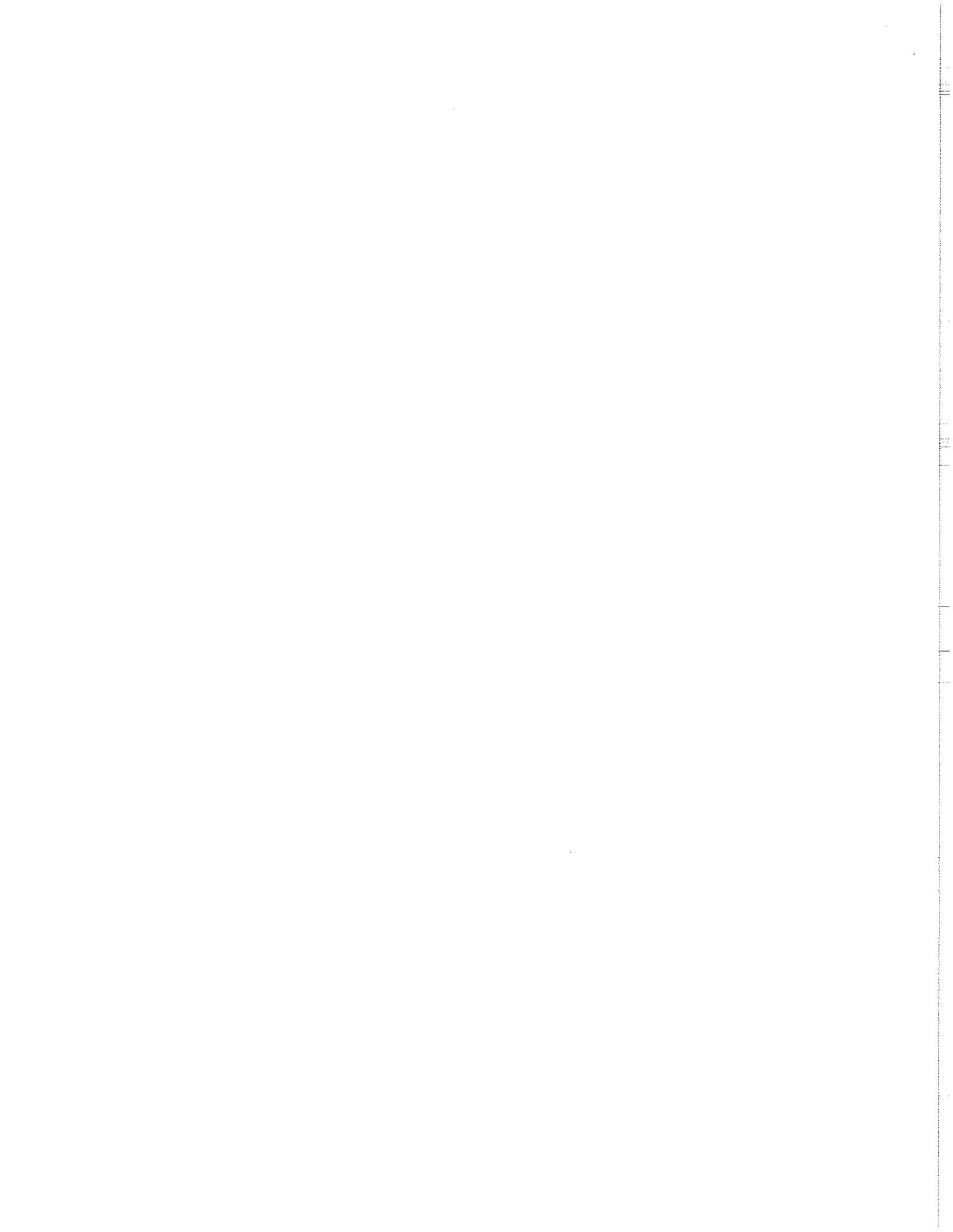


more than \$50 million investment in CHP as a tool to control its energy costs and remain competitive in the State.

1. K-C Does Not Oppose the Proposed Class III Study, But Interim Relief in the Class III Program Is Necessary.

Section 88 sets forth a requirement that the Department of Energy and Environmental Protection study the cost-effectiveness of the use of Class III electricity credits compared with long-term contracts for the development of CHP or efficiency resources. As this Committee is aware, K-C has serious concerns regarding the existing Class III program and whether it can support sustained operation of Class III resources, especially capital-intensive CHP resources, as well as attract new resources. While not opposing a targeted study of Class III issues, K-C firmly believes that interim relief is immediately necessary due to the Class III program imbalance. K-C submits, however, that the study must expressly consider the challenges faced by CHP resources that were encouraged by Act 05-01 and relied upon the Class III program to support continued economic operation.

Any study of the Class III program must recognize that a serious imbalance exists in the administrative program supporting Class III renewable energy credits ("RECs") that undercuts Connecticut's energy independence and economic development objectives. Although the development and operation of K-C's CHP system has been an undeniable success for K-C, its employees, the local New Milford community, and the state as a whole, that success is threatened by the existing and escalating Class III program imbalance. In large measure, the Class III program imbalance is attributable to a flood of Class III credits earned by ratepayer-supported, utility-administered conservation and load management ("C&LM") programs.

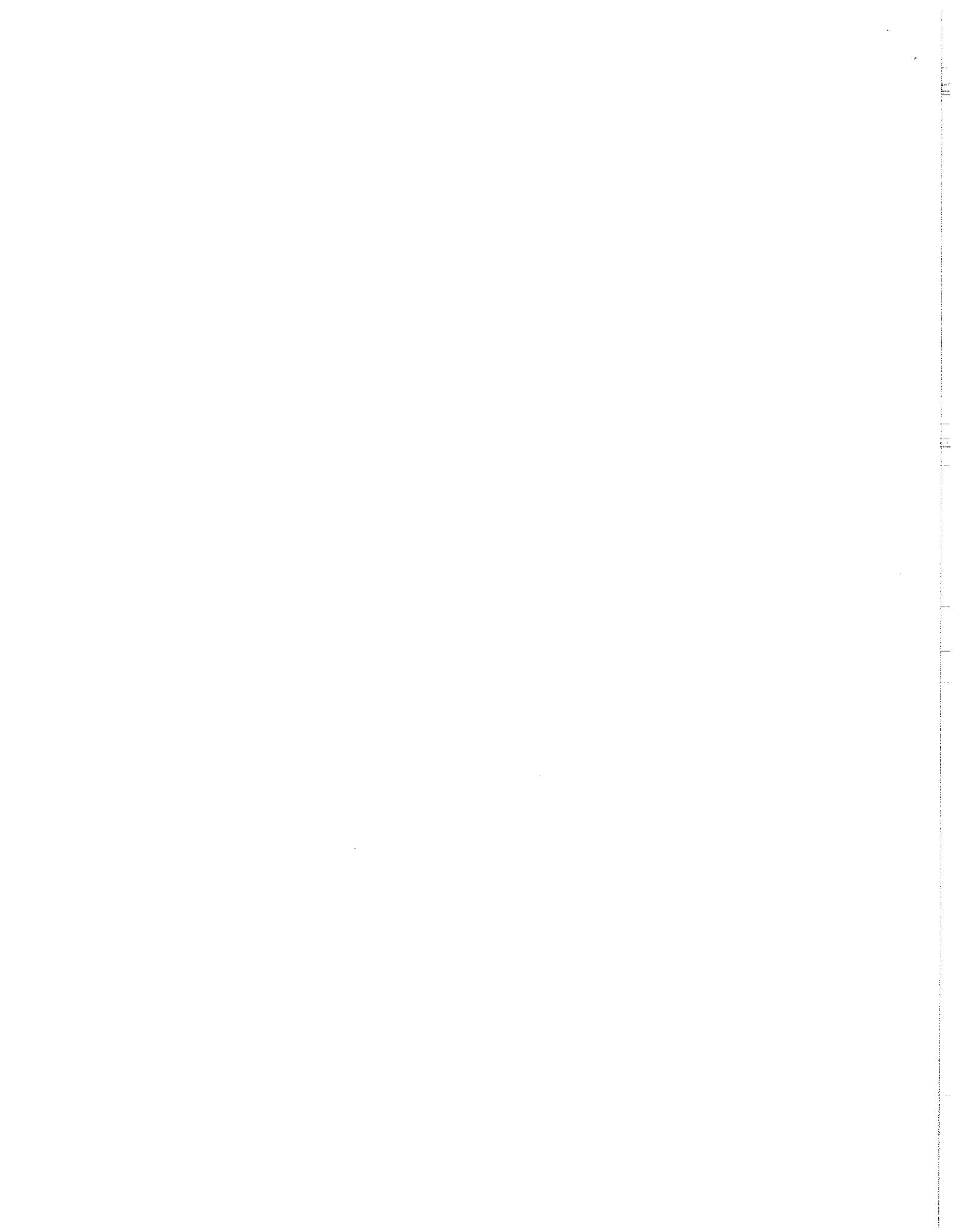


Only a small fraction of Class III RECs is generated by CHP resources; the vast majority is created by C&LM programs.

Any study should also recognize the interaction between the different Connecticut Renewable Portfolio Standard ("RPS") requirements. For example, the Class III program already has a significantly lower requirement than the Class I and Class II requirements. By way of reference, the Class III RPS requirement began in 2008 at 2% of non-municipal load, increased to 3% in 2009, and leveled off at only 4% of non-municipal load for 2010 and beyond. In contrast, the Class I RPS requirements for the 2010-2020 period span from 7% up to 20% of non-municipal load.

a. K-C Urges Interim Relief During the Study Period by Increasing the 2012 and 2013 Class III RPS.

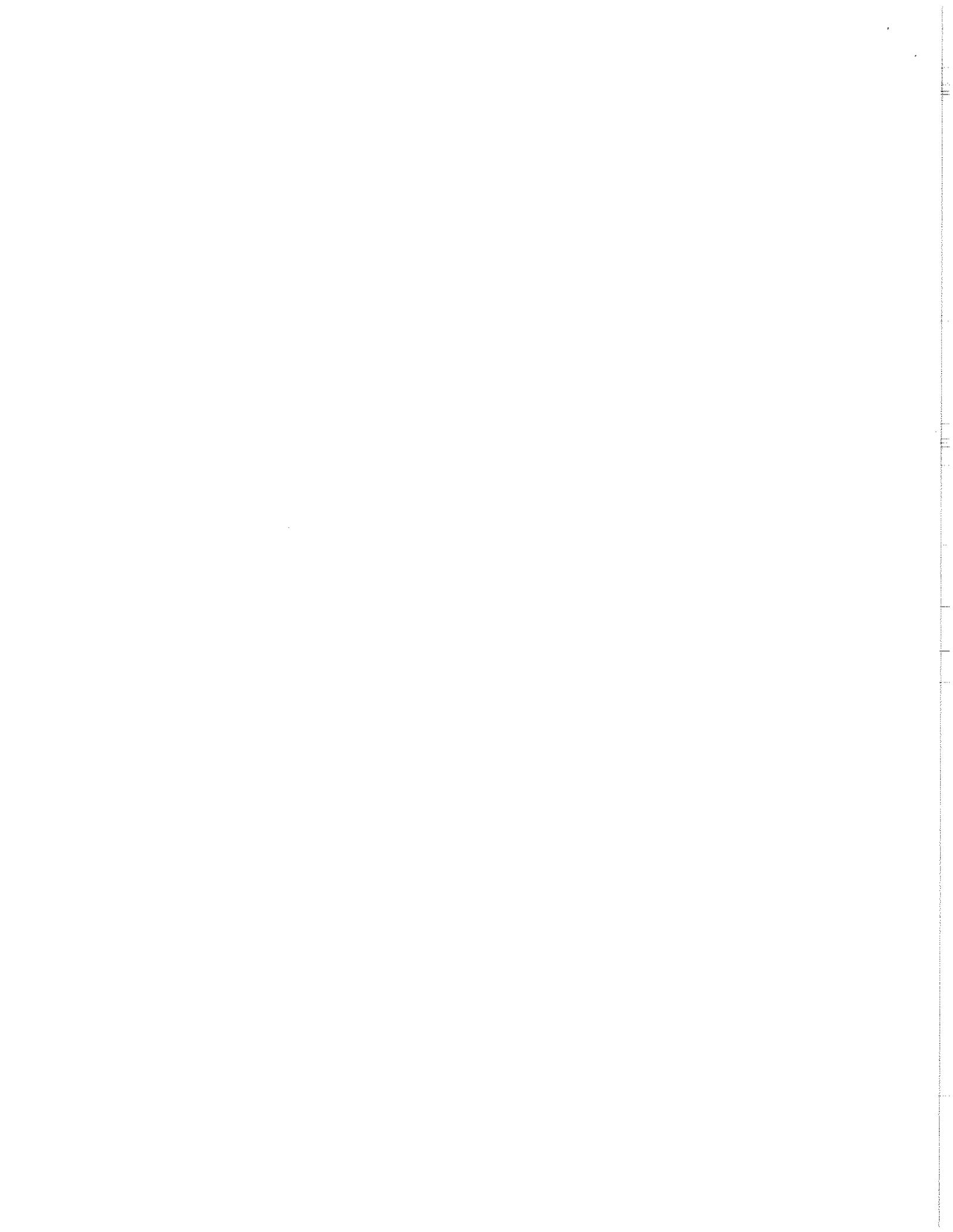
K-C recognizes that important and complicated issues are embedded in the State's RPS requirement and thus appreciates this Committee's interest in a comprehensive study of the Class III program and viable alternatives to retain and attract Class III resources in the State. However, there is a need for immediate action to address the Class III program imbalance while the study is undertaken. In 2010, the total yearly demand for Class III credits was estimated to be 1.2 million RECs. In the first three quarters of 2010 alone, supply came in at 1.3 million, exceeding annual demand with one quarter in 2010 left to go. To that end, K-C recommends, while the study is ongoing, increasing to 6% the RPS for Class III for 2012 and 8% for 2013, pending the study outcomes. Increasing the Class III RPS is necessary as interim relief to mitigate the existing sharp and expanding supply-demand imbalance. With the static Class III requirement, the serious Class III oversupply condition existing now will only increase in the future as C&LM projects continue to create Class III credits while the study is completed.



Not surprisingly, this inundation of Class III credits from the utilities' C&LM program has depressed the value of the Class III credits, if they can be sold at all. The fear of not being able to sell Class III credits to support continued economic operation is not unfounded for CHP developers because of the dominance of the utilities' C&LM programs in the Class III program. This is an urgent issue for many Connecticut employers like K-C that relied upon the Class III program to support their investment in CHP as a tool to control energy costs and remain competitive in the State. With this existing and growing Class III program imbalance, Class III credit prices, to the extent that the RECs can be sold, have sharply declined from 2.5¢/kWh in early 2009 to the 1¢/kWh statutory floor price intended to provide minimum revenue certainty for Class III resources. In fact, K-C has already received offers for less than the statutory floor price. If RECs cannot be sold in the "vintage year," the DPUC has decided that they expire at the end of the compliance year and have no value.

Saturation of the Class III market also chills investment – now and into the future – in new Class III resources, not only in CHP but also C&LM projects. Both types of Class III resources are cost-effective means for Connecticut to meet its environmental goals and, at the same time, support Connecticut businesses that seek to reduce their energy costs and remain in the State.

Slightly increasing the Class III RPS requirement while the study is conducted will mitigate harm to Class III resources during that intervening period. Even with the modest increase proposed by K-C, supply will continue to outstrip demand, but the increasing requirement will help to encourage new entry and retain existing resources during the study

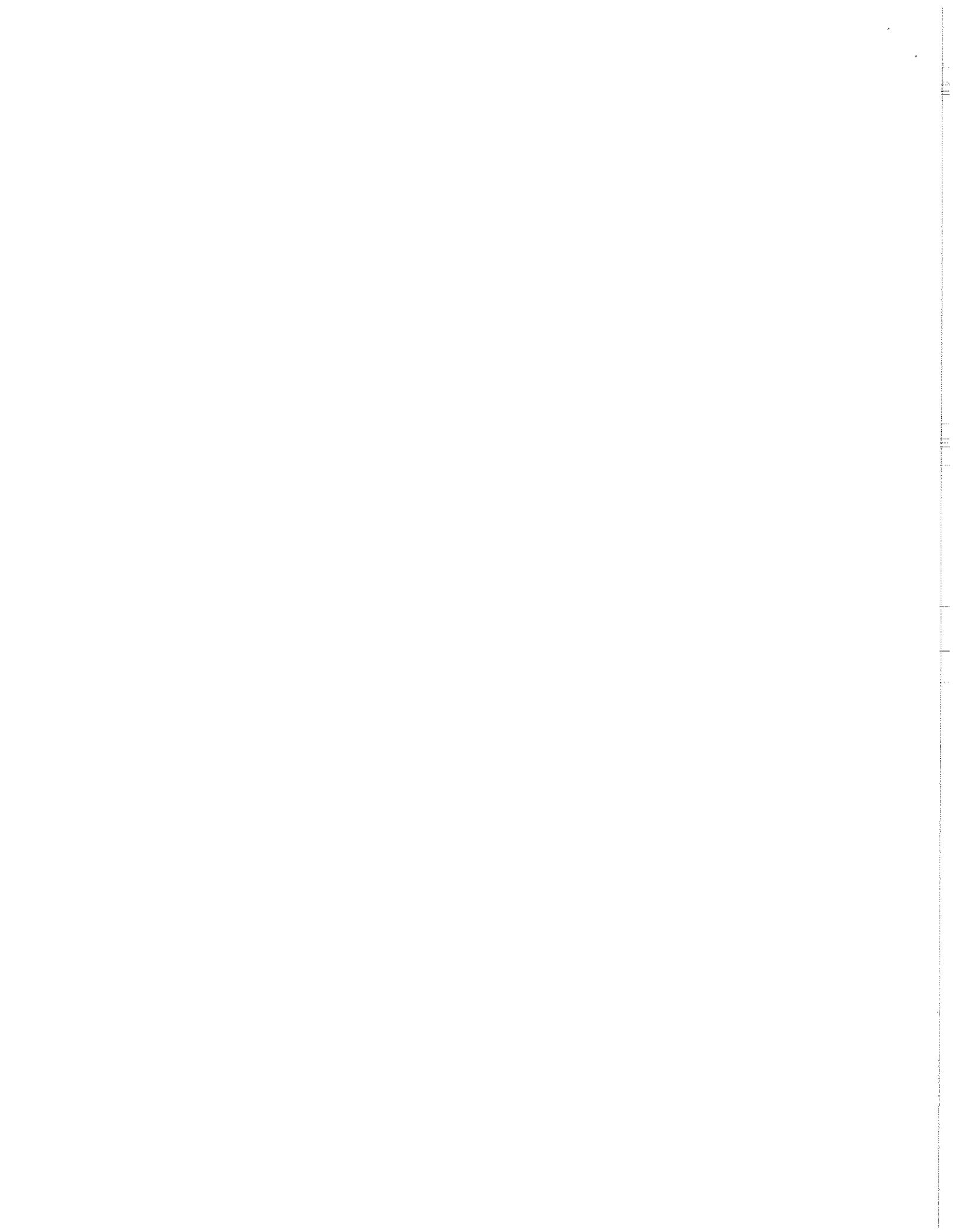


period when the existing static requirement may not. Such measures have both short- and long-term benefits by supporting existing businesses that relied upon Act 05-01 programs to remain viable as well as to encourage new CHP and C&LM development.

2. Clarification of the Energy Efficiency Calculation for CHP Systems To Earn Class III Credits

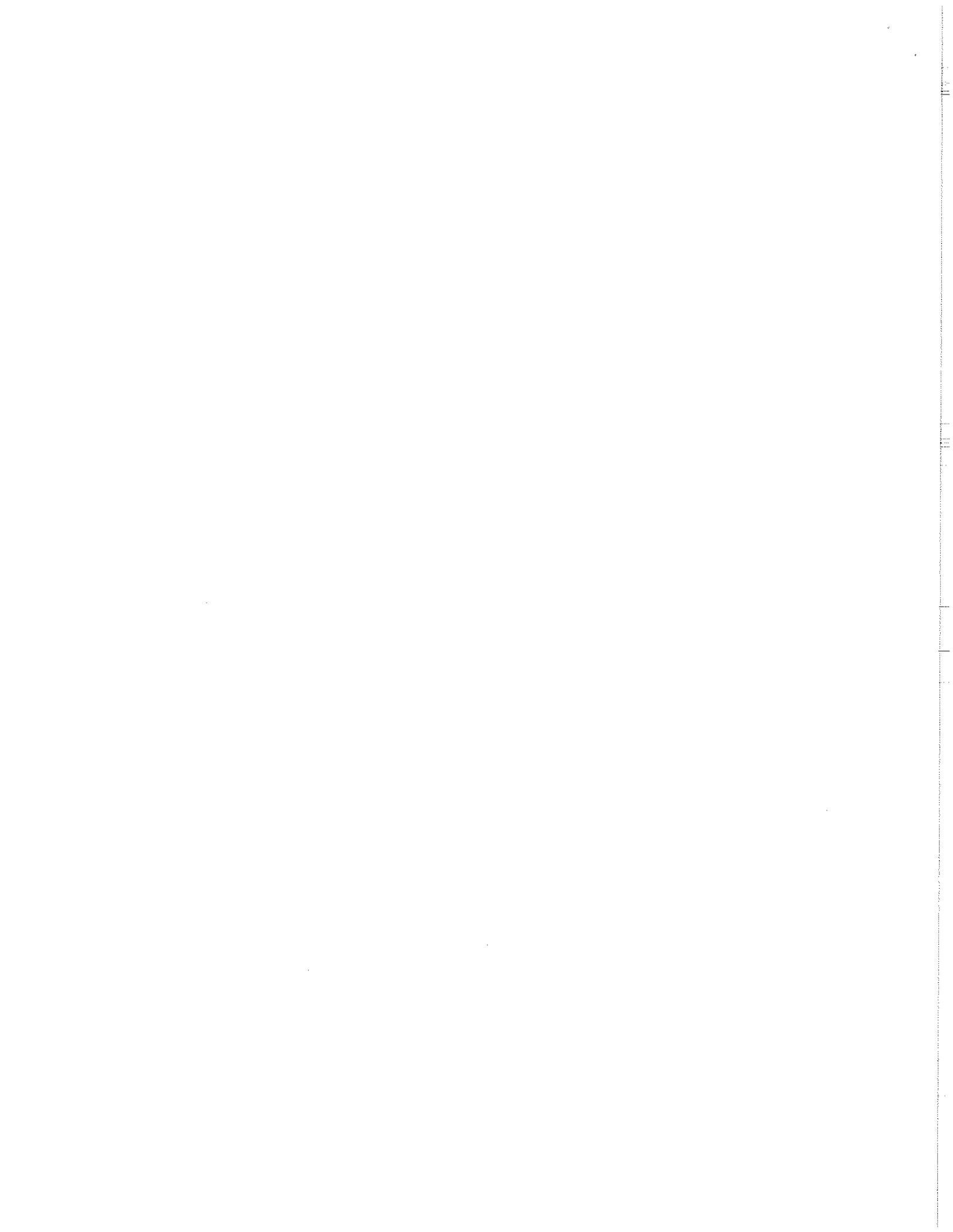
Section 8 of Bill No. 1 refines certain definitions in the State's Public Utility Code, including the definition of "Class III source" beginning at line 752. As this Committee is aware, Class III sources that are CHP systems must have an operating efficiency level of no less than 50% in order to earn Class III credits. The current "Class III source" definition does not specify, however, how the 50% operating efficiency should be determined. The proposed revision to "Class III source" in Bill No. 1 clarifies that the minimum efficiency level for CHP systems to qualify for Class III credits will be determined quarterly on a rolling annual average basis. K-C supports Bill No. 1's proposed clarification of the "Class III source" definition.

By way of background, the Connecticut Department of Public Utility Control initially interpreted the "Class III source" definition consistent with the proposed language in Bill No. 1 and required the minimum 50% operating efficiency level to be achieved on a rolling annual average basis, as determined in quarterly compliance filings. The Department's initial pronouncement early in its Act 05-01 development guided how many CHP developers, like K-C, designed their systems. After many CHP developers relied upon the Department's initial guidance, the Department unfortunately changed their interpretation to require that the minimum efficiency standard be met each quarter, as opposed to the annual average measurement, in an apparent effort to spur more efficient CHP operation.



While the Department's intention in changing the measurement protocol was unquestionably well meaning, the Department's revised interpretation fails to recognize the operational dynamics of, and incentives relating to, CHP operations. Namely, businesses have every incentive for efficient operations because costs increase with inefficient CHP operation. The Department's existing interpretation, however, risks penalizing businesses that have invested in CHP systems, which is contrary to the Energy Independence Laws' objective to support and cultivate CHP systems' long-term operation in the State.

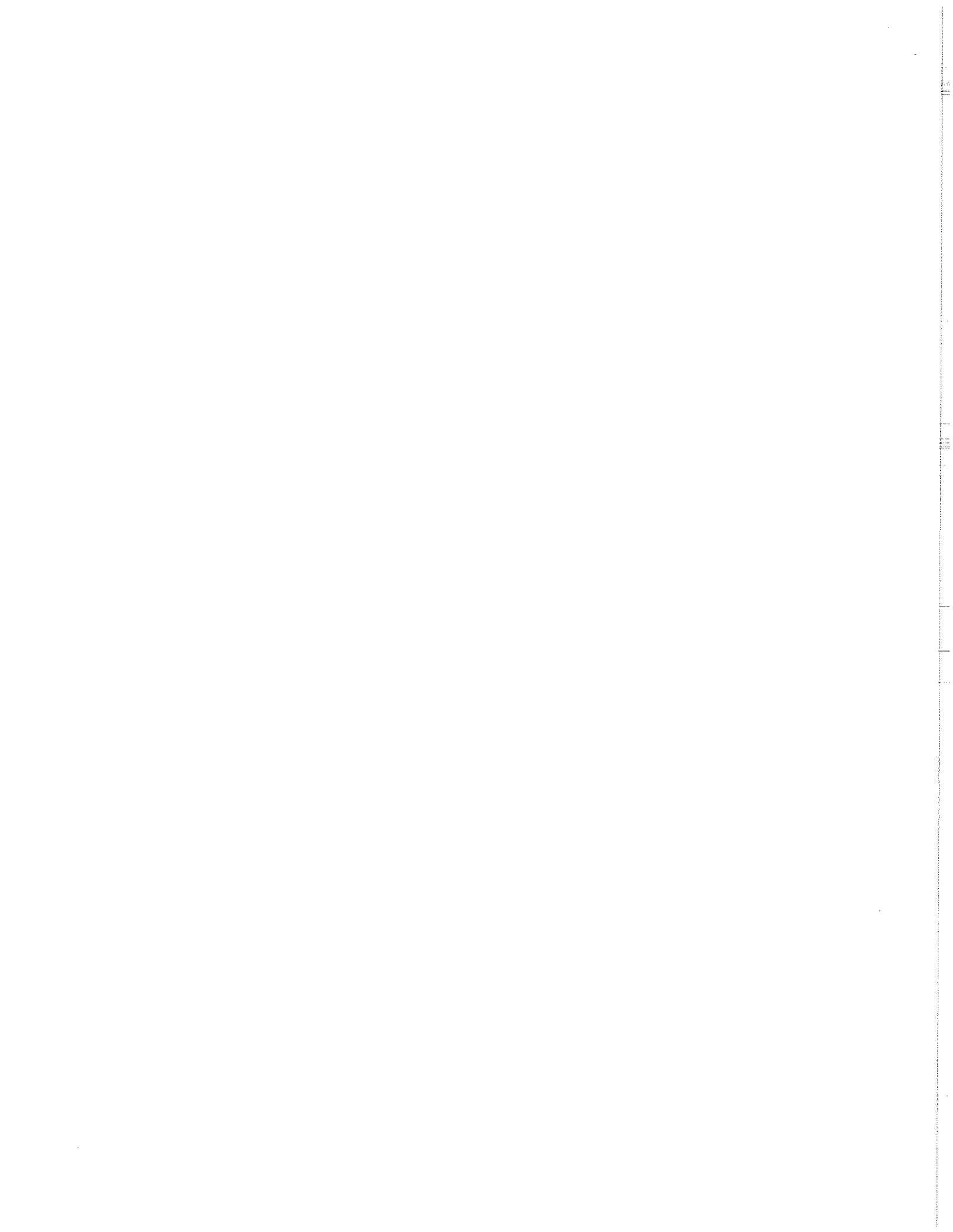
To be clear, K-C's operations have consistently and comfortably exceeded the 50% minimum efficiency threshold. K-C's concern relates to the interrelationship between the Class III minimum efficiency threshold with the Department's operational performance standards for CHP systems that earned monetary grants pursuant to Public Act No. 05-01. During January and February and June through September, CHP systems that received Act 05-01 monetary grants must operate, per the Department's administrative rulings, 85% of the hours or risk being required to return some or all of its monetary grant. Because ambient temperature impacts natural gas-fired generators' output during warm summer months, a CHP system actually must exceed 85% operations to meet the Department's operational standard. By way of example, if during one of the months that K-C has a performance mandate by the Department, a manufacturing line were to go down for whatever reason, K-C would be forced to continue operating its CHP system to maintain its 85% capacity factor, perhaps at an even higher level if during the summer months. With changing market conditions, such operation may not always be economic. In so doing, K-C would be forced to vent some of the heat



produced by the CHP that would not be needed in the manufacturing process because the manufacturing line was not in operation. This impairs K-C's efficiency statistics during that quarter. K-C and other similarly situated businesses have every incentive to restart the manufacturing line quickly, but, under the Department's interpretation, even a brief outage of a week or so could jeopardize K-C's ability to earn Class III credits for an entire quarter. Because a business with a CHP system has every incentive to operate efficiently, the Department's changed interpretation merely has the effect of penalizing CHP developers for minor operational issues that are not within their control.

For this reason, K-C supports the clarification proposed in Bill 1 to the measurement methodology for Class III efficiency to require rolling annual average measurement as determined in quarterly compliance filings. If major problems develop that continue for multiple quarters, the proposed measurement methodology would capture the decrease in efficient operations and preclude an inefficient CHP system from being rewarded with Class III credits. If it would be helpful to affirm the intent of the measurement methodology, K-C would support a further clarification to Bill No. 1 to specify that the 50% efficiency threshold be "determined quarterly on a rolling annual average basis to recognize seasonal variation in operations to ensure CHP units will remain in place for the benefit of ratepayers." Given the investments that have already been made in CHP systems in the State, sound public policy supports ensuring that the Class III resources are not penalized for minor operational issues and that incentives remain for CHP systems' continued operation.

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**Testimony of James S. Schneider
Kimberly-Clark Corporation
Committee Bill No. 1**

Thank you for your consideration of K-C's concerns with the Class III program and the need to take steps, not only to attract new Connecticut projects but also retain existing independent projects such as CHP resources. K-C deeply appreciates the Committee's dedicated efforts to promote Connecticut's energy independence and develop innovative approaches to support economic growth in the State, while simultaneously supporting the State's environmental goals. I am available to answer questions regarding my testimony.