

**BEFORE THE
STATE OF CONNECTICUT
JOINT COMMITTEE ON ENERGY AND TECHNOLOGY**

March 5, 2013

Testimony of Daniel Allegretti

For

Exelon Corporation

On

Raised Bill No. 944 (LCO 3441)

Members of the committee, thank you for the opportunity to present this testimony today. My name is Daniel Allegretti and I am a Vice President for State Government Affairs with Exelon Corporation (“Exelon”). Exelon supports the general concept of customer aggregation and the provision of electric service to aggregated customers through a solicitation to the competitive market. However, Raised Bill 944 suffers from a number of shortcomings which lead Exelon to oppose the bill.

Exelon

By way of introduction, Exelon is a Fortune One Hundred company, headquartered in Chicago, Illinois, with operations and business activities in 47 states, the District of Columbia and Canada. Exelon owns Commonwealth Edison Company, the Baltimore Gas and Electric Company and PECO Energy Company, which combined own electric transmission and distribution systems that deliver electricity to approximately 6.6 million customers. Here in Connecticut we are best known through our retail brand, Constellation New Energy, which provides electricity directly to thousands of Connecticut businesses and residents and to over a million customers nationwide. Exelon is also the largest competitive power generator in the U.S., with approximately 35,000 megawatts of owned capacity comprising one of the nation’s cleanest and lowest-cost power generation fleets, that includes over 3000 megawatts here in New England region. Exelon is a regular participant in the wholesale power solicitations conducted here in Connecticut and is a regular provider of Standard Service supply to CL&P and UI.

Municipal Aggregation Pilot

Raised Bill 944 establishes a pilot program under which a municipality with an energy improvement district and a population of over 140,000, such as Bridgeport, will aggregate those customers within the city who have not subscribed already with an electric supplier. The city will then conduct a solicitation and select a licensed electric supplier who will provide electric service to those customers. All customers who have not elected a supplier are free to opt-out of the program and customers who have elected a supplier already, are free, notwithstanding any contract obligations, to opt-in to the program.

Accommodation of Existing Retail Supply Contracts

The bill provides that "Residential customers who have contracted with an electric supplier may opt-in to the pilot program notwithstanding any contract obligations with such supplier." The powers vested in the General Assembly to pass legislation are indeed broad; however, they are limited by the constitutions of the State of Connecticut and the United States. Valid contracts freely entered into between parties are protected by the contracts clauses of the U.S. and Connecticut constitutions and may not be voided at the direction of the legislature. Nor is it good public policy to do so. A supplier who contracts with a customer will have taken steps and incurred expenses to enroll the customer and to arrange for a supply of electricity for that customer for the term of the contract. Voiding the contract will, therefore harm the supplier. This could lead to litigation over the pilot program and will, at a minimum, have a chilling effect on the willingness of suppliers to do business in the State. Connecticut already has a highly

active and successful retail electricity market. To sustain that market the State should respect past and future contractual arrangements that suppliers and their customers may enter or have entered into in good faith and in accordance with State law. At a minimum, the bill must be modified to delete any provision that purports to allow customers on valid retail contracts to void those agreements and opt-in to the pilot.

Accommodation of Existing Wholesale Supply Contracts

Standard Service customers today receive electricity from CL&P or UI, which the utilities purchase in the wholesale market, mainly through contracts that adjust the quantity supplied to meet the actual Standard Service needs. Many of these contracts expire at the end of 2013 and the rest of them expire sometime in 2014. While retail customers are free to leave Standard Service at any time and purchase their electricity from another supplier, these wholesale supply contracts were entered into by both parties without provision for a program that would remove over 140,000 customers from Standard Service without individual customers independently exercising their choice to leave Standard Service. This represents a dramatic shift in the expectations of the utilities and their wholesale suppliers. Unless provision is made, the wholesale contract sellers can be expected to seek remedies for the effect of the pilot program on their agreements. At a minimum the bill must be modified to avoid this conflict. The simplest mechanism is to delay the enrollment of customers under the pilot until the expiration of the wholesale contracts in 2014. Alternatively, it may also be possible to negotiate buyout agreements for the cancellation of the contracts on terms that are fair and reasonable to both parties.

Inconsistency with the Governor's Budget Proposal

Lastly, it should be noted that another form of government aggregation is under consideration, the Governor's proposal for the State to aggregate the 800,000 or so remaining Standard Service customers through an auction process. That process will effectively replace the aggregation of non-shopping customers by the electric distribution company with a retail supplier program administered by the State. The program is also intended to raise revenue for the State through auction fees to be charged suppliers. While there are considerable advantages in aggregating customers who have not chosen a competitive supplier and arranging for them to receive electricity at competitive prices, there is only room and need for the customer to be aggregated once. Standard Service is one form of aggregation. The Governor's proposal is another aggregation program that would effectively replace Standard Service. Municipal aggregation is a third approach. Whichever approach the State chooses to pursue it is vital for the companies that will supply electricity to any aggregation of customers to know who speaks for the customers and who they should be doing business with: the electric distribution company supplying Standard Service, the State administering a retail auction program or the municipality pursuing aggregation. If there is more than one program seeking supply for the same customer over the same term, the result will be confusing for customers and chaotic for suppliers. For this reason I urge the Committee not to pass Raised Bill 944 and create a needless conflict with whichever state-wide program is in place to aggregate customers that have not chosen

a supplier. If the Committee chooses, however, to go forward with the bill it must at a minimum address the potential conflicts among these competing programs.

Thank you.