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TESTIMONY

OF

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ON BEHALF OF

NEW ENGLAND POWER GENERATORS ASSOCIATION (NEPGA)

2013– SENATE BILL 1138

LCO 4767

CONNECTICUT GENERAL ASSEMBLY

JOINT COMMITTEE ON ENERGY AND TECHNOLOGY

MARCH 19, 2013

Good morning and thank you for the opportunity to testify. My name is Sandi Hennequin and I am the Vice President of the New England Power Generators Association, Inc. ("NEPGA"). NEPGA is the largest trade association representing competitive electric generating companies in New England. NEPGA's member companies represent approximately 26,000 megawatts (MW) – or nearly 80 percent – of generating capacity throughout New England, and over 7,300 MW of generation in Connecticut, representing the vast majority of the electric generating capacity in the state. Overall, NEPGA's Connecticut companies pay approximately $110 million annually in state and local taxes, including the state tax on electricity production. Our member companies provide over 1,500 well-paying and skilled Connecticut manufacturing jobs, while contributing over two million dollars to charitable endeavors throughout the state. NEPGA's mission is to promote sound energy policies which will further economic development, jobs and balanced environmental policy.

NEPGA's Position

NEPGA has significant concerns with the proposed amendment to Senate Bill 1138 (LCO 4767).[1] As currently drafted, LCO 4767 creates a new sub-tier, "Class I contracted tier renewable energy sources," which provide an avenue for resources such as large-scale government-owned Canadian hydro to qualify for subsidies under the state's Renewable Portfolio Standard (RPS). This amendment further provides the Commissioner of the Department of Energy and Environmental Protection (DEEP) with the authority to solicit proposals from Class I and Class I contracted tier renewable energy developers for 20-year long-term contracts without competitive solicitation. NEPGA believes much of this amendment is motivated by a desire to grant a contract – in this case a no-bid, single-source contract – to Hydro Quebec (HQ). This is extremely problematic as the state would effectively be discriminating against in-state industrial employers such as NEPGA's members who have invested billions in Connecticut by excluding them from an opportunity to bid on a competitive Request for Proposal (RFP) while forcing them through the generator tax to pay higher taxes than the companies benefitting from the sole-source contract. As NEPGA has testified before this

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[1] The views in this testimony reflect the views of the New England Power Generators Association and not necessarily the positions of each individual member.

Legislature and in written comments at the DEEP, before any such broad fundamental market change is made, these policy proposals warrant robust stakeholder input and open discussion which unfortunately has not occurred.

To more fully explain our position on LCO 4767, the remainder of NEPGA's testimony will focus on four main areas:

- Concerns with the proposed Class I contracted tier renewable energy source;
- The role of Purchase Power Agreements (PPAs) in the competitive electric market;
- The uncertain prospects for the Northern Pass Transmission (NPT) project; and
- The lack of an adequate and thorough stakeholder process.

The policy changes proposed in LCO 4767, and the DEEP RPS Study Executive Summary released yesterday, are significant. They warrant informed and deliberative discussion by ***all*** impacted market participants.

Concerns with the Proposed RPS Class I Contracted Tier

As drafted, NEPGA has significant concerns with the creation of the Class I Contracted Tier Renewable Energy Source and opposes this policy direction. As NEPGA noted in its December 2012 comments regarding DEEP's draft Comprehensive Energy Strategy (CES), the Connecticut RPS has been in existence for many years, thus there is some merit in conducting a review of the RPS to gauge its success in meeting its policy goals. However, we cautioned against making widespread changes that minimize the regulatory certainty necessary for the RPS to be successful. We further noted significant concerns regarding a change in the definition of an eligible resource in a manner that undermines the very purpose of a RPS. The new Class I contracted tier does just that. Our specific concerns include:

- ***Large-Scale, Government-Owned Hydro Should Not Qualify for Connecticut's RPS.*** The primary goal of an RPS is to provide a consumer subsidy to support emerging renewable energy sources that may not be economical when compared directly with current commercial technologies and which may not be developed without that support. Large-scale, state-owned hydro resources, however, already

are subsidized by rate-payers in Canada and further are a commercially-proven resource, not an emerging technology. It does not require an additional RPS-type subsidy by Connecticut consumers that will be used to hold down power prices in Canada, while making it harder for Connecticut's economy to compete. Canadian hydro resources are certainly capable of competing in the Connecticut market without a RPS-type subsidy. These resources already compete over existing transmission lines through New Hampshire and New York; it is not clear why they now need a subsidy. In fact in other venues such as in Maine, HQ has noted it does not seek to get into the New England RPS program, but rather to "co-exist" with the RPS.[2]

- ***Canadian Hydro Does Not Necessarily Meet RPS Environmental Goals.*** Including imports of large-scale government-owned hydro resources into the RPS does not necessarily meet the environmental goals of the RPS. This is particularly true for large-scale imports of hydro power from Hydro-Quebec (HQ), which are typically provided to New England today as "system power" resources. This means that they are not unit specific and not automatically tracked to any specific generation facility from which the power originated. Given the large storage capacity and strong interties of the HQ system with other, higher-emitting jurisdictions, it is highly probable that a substantial portion of energy will have actually originated from fossil-fuel generating facilities from such neighboring jurisdictions. The "system power" form of sale would not support accurate accounting to assure the same hydro megawatt-hours are not sold to more than one party, a critical element of the Generator Information System (GIS) administration of New England REC markets. This would clearly undermine the environmental objectives of the RPS.

- ***Large-Scale, State-Owned Hydro Does Not Meet RPS Policy Goals.*** The purpose of a RPS is to provide policy and financial support to energy sources that may not be economical when compared directly with current commercial

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[2] HQUS Presentation before the Maine Legislature's Joint Committee on Energy, Utilities and Technology, January 22, 2013.

technologies and which may not be developed without RPS support. It is difficult to see how the inclusion of these hydro resources in the Connecticut RPS will affect the development or operation of hydro facilities which will be built based on the value of their energy and capacity (and portfolio requirements of their province), not a subsidy from Connecticut consumers. In contrast, more local renewable resources depend, to a very real degree, on REC revenues for both development and continued operation. Since many of these resources are distributed technologies they also tend to be developed within the State of Connecticut, paying local taxes and supporting local employment. Given this goal, eligibility for consumer subsidies through RECs should not be extended to energy sources that do not satisfy environmental and policy criteria, or that do not face the economic challenges of other renewable technologies, such as large-scale provincially-owned hydro.

- ***The Current Proposed Definition Excludes Some Potential Resources.*** If changes are going to be made to the RPS, it is important to weigh all alternatives, not arbitrarily pick winners and losers, and make sure all changes are made at the same time. It is important that any proposed changes to the RPS include an evaluation, and an informed discussion, of all alternatives, not a presupposed outcome. It is particularly ironic that this proposal provides explicit exclusions to local resources (such as those with Low Impact Hydro Institute certification) which would not specifically apply to foreign resources through the Class I contracted tier.

- ***A Successful RPS Needs Regulatory Certainty.*** A successful RPS needs to provide a degree of regulatory certainty that rules and definitions for all fuel types whether they be hydro, biomass, solar, wind or fuel cells are not subject to sudden or continual change. This allows contractual arrangements to be made in the market to meet the RPS requirements. Enticing firms to make investments and create jobs in Connecticut with a RPS program simply will not work if the program is modified in ways that undermine the reasonable expectations of investors. Policy consistency and certainty is critical for long-term investments in any industry and especially true in one as regulated as electricity.

The Role of Power Purchase Agreements in a Competitive Electric Market

NEPGA also has significant concerns with the proposal to give greater authority to the DEEP Commissioner to solicit proposals from Class I or Class I contracted tier resources. As drafted, there is no requirement for an analysis of the need for these resources before soliciting proposals nor assurances that either imports over existing infrastructure or internal New England resources would be able to fairly compete. Further, there is no requirement for utilizing a competitive solicitation process to procure needed generation resources. Instead, this LCO would give the electric distribution companies (EDCs), one of which is an affiliate of the entity that will be greatly benefitted from the building of the transmission line over which this HQ energy would flow, the ability to sign a 20-year single-source, no-bid contract with HQ. This contract would be paid for by all Connecticut consumers, regardless of whether it is economic or not. The proposed legislation would put the risk of these contracts squarely on the back of consumers again.

At the same time, the Governor is proposing to aggregate and auction all remaining standard offer customers of the EDCs off to retail suppliers. NEPGA supported the Governor's proposal and if it is enacted it would call into question how the purchased power would be used. What would the EDCs do with the power that they just purchased if they no longer serve a critical mass of power consumers? Further long-term commitments, such as those considered here, should not be made until there is more policy certainty over the role that EDCs will continue to play in Connecticut's electricity market.

NEPGA believes that state-sponsored PPAs are not the best way to promote resource development at the lowest cost and risk for consumers. Rather, properly designed electricity markets should provide sufficient incentives for the financing and development of all generation resources, including renewables. To the extent that these markets are not working accordingly – and NEPGA agrees that significant improvements to these markets would be beneficial – work should be pursued through the Independent System Operator New England (ISO-NE), the New England Power Pool (NEPOOL) and the Federal Energy Regulatory Commission (FERC) to affect

necessary market improvements.

If, after exhausting efforts to achieve market improvements, DEEP determines that these markets are not working as designed, and makes a policy decision that additional generation is necessary for system reliability or to mitigate the cost of renewable energy, it would then be imperative that PPA recipients are selected through a competitive procurement process open to all resources, new and existing. Any procurement of generation resources should be done through an open, transparent and competitive process, consistent with prior legislative acts.

In July 2005, the Connecticut General Assembly passed Public Act 05-01, the Energy Independence Act, which contained a number of incentives for reducing congestion costs, and for expanding the development of customer-owned generation and increasing energy efficiency. In particular, the legislation provided for a Request for Proposals (RFP) process for new generation and demand reduction resources. In July 2007, the General Assembly passed Public Act 07-242 which included a package of provisions to encourage energy efficiency and conservation, incentives for renewable energy, and incentives for other generation resources. Both pieces of legislation relied upon a competitive RFP process administered by regulators and open to all market participants. This competitive RFP structure initiated substantial development of generation under a procurement process that assured only the most competitive bids were selected. In response to the 2006 RFP, over 80 projects totaling 8,000 MW were submitted. The 2007 peaking RFP led to the submittal of 11 proposals totaling 1,800 MW. Both generation procurements were done through an open, fair and transparent competitive bidding process. This approach expanded the consideration of generation development to a wide range of companies, allowing a competitive process to deliver the desired generation, at the lowest costs to ratepayers.

During 2011, the Legislature passed Public Act 11-80 which opened the door for utilities to own up to 10 MW of renewable generation and required that the vast majority of renewables once again be competitively procured. In an RFP issued in December 2011 – with only one week of notice – 21 proposals were submitted and two projects were

selected to provide 10 MW of solar generation. Even under a rushed timeline robust competition was evidenced in the RFP process. As noted by Governor Malloy commenting on the RFP's results, "This selection process validates our new approach to energy policy in Connecticut… The fact that 21 projects – representing 70 MW of clean renewable power – applied under this program is a clear sign that entrepreneurs and clean technology innovators are excited about the new approach Connecticut has taken."[3]

Connecticut's experience with competitive procurement should be contrasted with Massachusetts' experience of not using competitive procurement. Western Massachusetts Electric Company (an NU company) is in the process of building two utility-scale solar facilities with financing on a regulated monopoly basis. These projects are both slated to cost over $5,220 per kilowatt.[4] While every development is different and component costs for solar projects have continued to fall, these two projects are each nearly three times as expensive as the per kilowatt cost of the comparably-sized facilities that were the result of the 2011 Connecticut RFP.[5] No market test was put to work for the Massachusetts projects taking away the opportunity for consumers to judge whether cheaper or more efficient options were available. This example illustrates the dangers of pushing through rate-based investments in which all the risks and costs are borne by consumers, in sharp contrast to the efficiencies, innovation and reduction in consumer costs that result from robust competition.

The Uncertain Prospects for the Northern Pass Transmission Project

Underlying much of the proposed policy in LCO 4767 is the belief that certain infrastructure projects, such as the troubled Northern Pass Transmission (NPT) project, will be built on time, if at all. In determining whether to include out-of-region, large-scale hydro as part of Connecticut's RPS it is vital to weigh the likelihood of this infrastructure

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[3] Department of Energy and Environmental Protection Press Release, "Governor Malloy Announces Procurement of Cheaper and Cleaner Energy For Connecticut" December 23, 2011

[4] See http://www.huffingtonpost.com/2010/11/15/largest-solar-power-plant_n_783502.html#s182357&title=Solar_Energy_Plant and http://www.masslive.com/news/index.ssf/2011/01/western_massachusetts_electric_3.html

[5] A conservative calculation for the Massachusetts projects of a 20% carrying charge rate and 20% capacity factor results in nearly 60 cents/kWh. This is contrasted with the 22.2 cents/kWh announced for the 2011 Connecticut RFP results.

being built to deliver the power to New England. The challenges that have confronted, and continue to plague, the troubled NPT project in New Hampshire provide an example of this concern. In October 2010, NU and HQ announced a proposed 180-mile route for the NPT, including 40 miles of new right-of-ways through northern New Hampshire and 10 miles through the pristine White Mountain National Forest (WMNF), as well as announcing an alternative route. The proposal was immediately met with opposition, with 29 towns unanimously passing resolutions in March 2011 that they did not want the project to come through their towns.

Since that time four more towns have passed resolutions opposing NPT, most recently the town of Deerfield which is expected to be a prime financial beneficiary of NPT. Several bills were introduced in the New Hampshire House seeking a moratorium on applications for elective transmission siting until enhancements are made to the state Site Evaluation Committee (SEC) process. In response to a recent comment from the New Hampshire SEC Chair that the "system was at a breaking point" (referring to the SEC process), the Senate sponsor of a bill to reform the SEC process has announced that she will introduce an amendment tomorrow for a one-year moratorium on all energy projects starting the state sight evaluation process, a significant setback for the already-troubled NPT project.

In early 2011, NU and HQ announced they would develop a new proposed path for the NPT project, due out in June 2011. During the 2011 New Hampshire legislative session, a bill to prohibit NU and HQ from using eminent domain to acquire land to build the proposed line from Canada was introduced. The Legislature overwhelmingly passed it and Governor John Lynch signed the bill into law in March 2012. The proposed route announcement has been delayed numerous times and is still outstanding. Increasing skepticism over the project's future is being expressed by the investment community, with Bloomberg analyst Andrew Weisel noting after NU's 3Q 2012 investment call that the "outlook for the company's transmission unit…is 'increasingly uncertain' given the

problems and pushback in New Hampshire." Weisel predicted an in-service date at best in late 2017.[6]

If and when the new route is secured, there are three main regulatory hurdles the project must pass. First, it must secure a Presidential Permit through a Department of Energy (DOE) process to allow it to cross the Canadian border into the United States. Second, it must obtain approval from the New Hampshire Site Evaluation Committee (SEC). Finally it must secure a Special Use Permit to allow it to cross over the White Mountain National Forest (WMNF). The last Special Use Permit approved for the WMNF was for an expansion of an existing ski resort. This approval process took nearly 10 years. The NPT project has already been delayed several years and with the regulatory hurdles left to confront, it is likely that the project will, at the very least, experience more delays.

Other similar transmission projects that have been proposed over the last few years for the Northeast including the Champlain Hudson line through New York and the Northeast Energy Link have also experienced opposition and potential delays. Connecticut policy-makers should be mindful of this opposition and factor in the likelihood of these transmission projects actually being built before making widespread significant changes to state policy and the RPS. Basing the state's energy policy on a project such as NPT that is several years delayed and in peril is not sound policy.

The Lack of An Adequate and Thorough Stakeholder Process

A theme throughout NEPGA's testimony is the need to thoroughly analyze the options, consider alternatives and solicit input from impacted market participants. While the DEEP has done its analysis, and talked with certain members of the Legislature, the stakeholder input on the RPS issue has simply not occurred. NEPGA appreciates the Energy and Technology Committee's public hearing process but believes strongly that the stakeholder process –promised by DEEP – needs to occur before the Legislature can be asked to take action. As the Legislature is holding its public hearing, the draft

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[6] "Wall Street Skeptical About Northern Pass," *Concord Monitor,* November 1, 2012.

Executive Summary of the RPS Study was released only 19 hours prior to the start of the hearing. The full draft and technical materials were not available.

The draft CES was released in October 2012 and a key recommendation in the draft was that the policy issues in this bill – widespread changes to the RPS – would be examined and evaluated in the separate RPS study. During the November 2012 DEEP Technical Session on the draft CES electricity sector strategy recommendations, many participants addressed the RPS study and offered a host of perspectives. One common shared perspective of all participants was the necessity for stakeholder input into the development of the RPS Study. Many participants pre-registered for the November 15 session in order to address concerns on the RPS study and during the technical session were asked to hold their comments until the RPS Study process. The DEEP noted that it was "early in the RPS study process" but hoped to have a report done for the 2013 legislative session. As NEPGA wrote in its December 2012 comments on the CES draft, we shared the concerns expressed during the technical session that this compressed timeframe does not allow for a robust stakeholder process. NEPGA also supported the sentiments expressed by many that not only should there be a stakeholder role but it is essential that stakeholders be afforded an opportunity to comment prior to the completion of a draft report. This clearly did not happen. Given the DEEP's strong focus to date on stakeholder input in its proceedings, it was our hope that DEEP's process will continue with adequate time for meaningful stakeholder perspectives. In interactions with DEEP since that time, market participants were assured there would be adequate stakeholder input. This simply did not happen, and given the compressed timeframe for review, does not appear to be happening.

Four months after the DEEP technical session, and less than 24 hours before this hearing, stakeholders were still wondering when the RPS study would be done. And would it be done as a draft or a final version? Would there be stakeholder input as promised? As these questions were being asked, LCO 4767 emerged and was set for today's hearing. While a legislative public hearing is an opportunity for stakeholders to comment, this is not the venue for the promised robust stakeholder conversation on the RPS. The fact that the RPS study (the Executive Summary) was released less than 24

hours before the already scheduled hearing – is also troubling. Asking the Legislature to act on the significant policy changes suggested in LCO 4767 while rushing the promised robust stakeholder review of the draft RPS study is not good public policy.

Conclusion

NEPGA appreciates the opportunity to offer these policy considerations on LCO 4767. Our comments provide the unique perspective of the region's generation community on the impacts of this legislation on the existing competitive electric market in Connecticut. NEPGA asks the Committee to not act on tis bill at this time. The RPS study which serves as the basis for this conversation was just released yesterday and only the Executive Summary, not the full study or the technical analysis. The request to provide input before a draft was completed was not provided. Many stakeholders such as NEPGA are strongly opposed to the inclusion of government-owned, large-scale hydro in the Connecticut RPS and believe it undermines the very purpose of an RPS. The fact that this change is predicated on a challenged infrastructure project such as the Northern Pass Transmission is troubling and not a strong foundation upon which to base a state's energy policy. Considering a detour from the successful competitive procurement processes that the state has utilized over the last decade to secure generation resources is a significant policy shift that should be not taken lightly. For all these reasons, NEPGA strongly urges the Committee to exercise caution and not act on this proposed legislation at this time. Instead the State should allow the stakeholder process on the RPS study to occur and consider recommendations from that process at a later time.

Thank you for the opportunity to testify before you today. I would be happy to answer any questions from the Committee.