The Energy and Technology Committee

Public Hearing, March 17, 2015

Testimony of

Consumer Counsel Elin Swanson Katz

Presented by Consumer Counsel Elin Swanson Katz

RAISED BILL NO. 1078, AN ACT CONCERNING AFFORDABLE AND RELIABLE ENERGY

Consumer Counsel Elin Swanson Katz and the Office of Consumer Counsel (collectively "OCC") support Raised Bill No. 1078, An Act Concerning Affordable and Reliable Energy, so long as (i) Section 1 is amended to clarify its intended scope, and (ii) the review period for the Public Utilities Regulatory Authority in Section 4 is increased from sixty days to at least 120 days. OCC also has questions about how the Energy and Technology Committee processes set forth in Sections 1 and 3 of the bill would work.

Based on a 2014 ruling by the federal District of Columbia Court of Appeals, there is a concern throughout the region that demand response resources may be excluded from the energy and capacity markets managed by ISO-New England. The D.C. Circuit declared that demand response (involving such activities as an industrial customer by contract agreeing in advance to reduce its usage in response to electricity shortage conditions and high electric prices) is a state retail activity and should not be compensated in interstate commerce. The United States Supreme

Court is still deciding whether to review this ruling. Should the ruling stand, Connecticut and other states will need to scramble to create demand response programs for activities that will no longer be compensated through ISO-New England. Otherwise, the sudden "disappearance" of demand response could create a perceived shortage of electric resources and extreme price spikes.

Fortunately, the creation of demand response programs in many instances involves a *re-creation* of such programs, since Connecticut had already developed its own demand response programs through the utilities in the middle of the last decade. Such programs were developed in part pursuant to Section 16-243m(a). It is OCC's understanding that Section 1 of the bill borrowed much of the language in Section 16-243m(a) in an attempt to rectify the problem caused by the D.C. Circuit Decision. However, that existing provision is written much more broadly than necessary for the present purpose of dealing with this potential sudden departure of active demand response resources for lack of compensation. As a result, Section 1 is at present written too broadly, covering generation resources and distributed resources when maintaining demand response is the goal.

OCC has expressed this concern to the Department of Energy and Environmental Protection ("DEEP"), and DEEP concurs that Section 1 should be revised so that it only encourages the development of in-state, active demand response programs. "Active" demand response is of the type used in the example above, such as an industrial customer receiving compensation to shut down a process when power is scarce and expensive. In contrast, "passive" demand response, such as energy efficiency, is already compensated through existing state programs and is

not threatened by the DC Circuit ruling. To accomplish this change, the second sentence in Section 1 of the bill could be amended to simply state that "[S]uch measures may include active demand response programs."

OCC is, with one exception, highly supportive of the proposal contained in Section 4, which would clarify DEEP's authority to conduct proposals to develop key energy resources in coordination with other states. OCC has appreciated DEEP's efforts to work with and in many instances lead such interstate efforts to date, and OCC agrees with the goals that DEEP has tried to achieve, including but not limited to the expansion of natural gas pipeline capacity into the region and promoting access to Canadian hydropower resources. The only issue that OCC has with Section 4 is that it only allows for a sixty day process at PURA to review such proposals. The contracts called for in these processes could involve hundreds of millions or even billions of dollars in customer investment, and OCC maintains that PURA ought to be able to do a fuller analysis than a sixty day process would allow. OCC therefore recommends that the time period listed in Section 4(d) be changed to 120 days.

OCC has questions about the Energy and Technology Committee (the "Committee") approval processes listed in Sections 1 and 3 of the bill. In Section 1, the measures approved by DEEP (to promote active demand response, see above) would need to be reviewed by the Committee, who then shall advise DEEP of its approval or modifications. It is unclear to OCC what happens if, for example, the Committee rejects a DEEP proposal, or if the Committee suggests a modification that DEEP believes is unfeasible, or if the Committee takes more than sixty days to respond to DEEP's proposal. Similar questions arise as to the Committee approval

process called for in Section 3, relating to implementation of measures in support of the integrated resource plan.