



Dear Members of the New Hampshire Energy Planning Advisory Board:

Constellation Energy Commodities Group, Inc. ("CCG") and Constellation NewEnergy, Inc. ("CNE"), (collectively, "Constellation Energy") are pleased to submit the following comments to New Hampshire's Energy Planning Advisory Board ("EPAB") concerning the further development of the state's energy policy. The June 2006 forum and report seek to develop initiatives and policies that can strengthen New Hampshire's energy policy relative to security, affordability and sustainability. While the scope of such a task is large, and includes a wide range of state, regional, national and global issues, Constellation Energy will limit its comments to New Hampshire's electric energy policy.

CCG is a wholesale supplier of electric power to many of New England's electric utilities in connection with either their standard offer or default service obligations. Specifically, the company is currently serving National Grid's residential and small commercial customers in New Hampshire. CNE is a licensed retail supplier in 21 states, including New Hampshire, and two Canadian provinces. CNE currently provides over 15,000 MW of electrical supply directly to businesses throughout the country for their own use, including many customers here in New Hampshire. In fact, CNE currently serves over 100 MW of electricity directly to customers in New Hampshire. Both companies are subsidiaries of Constellation Energy Group, Inc. a Fortune 200 company headquartered in Baltimore, Maryland which also owns Baltimore Gas and Electric Company, one of the nation's oldest and most respected electric utility companies.

Overall, Constellation Energy is encouraged that the restructured electric industry is beginning to bear fruit and customers are migrating to the competitive market. However, New Hampshire's electric energy policy remains in transition with one foot in the regulated world and the other foot in the restructured world. National Grid and Unital Energy Systems, Inc. ("Unital") have fully restructured while Public Service Company of New Hampshire ("PSNH") has failed to fully restructure. This inconsistent regime will continue to forestall a fully robust competitive market. As a consequence the state's economy will be harmed as market participants and private capital hesitate to make investments and pursue business opportunities in the state. The sooner the state makes a firm commitment to a fully restructured market, the sooner the state will be able to advance its energy policy to provide more secure, affordable and sustainable electricity for its citizens.

Constellation Energy offers the following specific recommendations which will be more fully detailed below:

- In the short-term, policy-makers should evaluate a host of measures that will encourage conservation, develop new renewable resources, and provide immediate tools for residents to lower their energy costs.
- In the medium-term, the Legislature should consider three options:

1. Require PSNH to issue a Request for Proposals (“RFP”) for the procurement of 25-30 percent of PSNH’s Default Service portfolio.
 2. Require the New Hampshire Public Utilities Commission (“PUC”) to open a docket to evaluate the criteria for PSNH divestiture.
 3. Require PSNH to bid its entire load into the marketplace and also to sell all of its generation into the marketplace. PSNH would then take the premium between the cost of its generation and what it receives from the marketplace and apply it to reduce stranded costs.
- In the long-term, the PUC and the Legislature should finish the implementation of the PSNH Electric Industry Settlement by requiring the separation of PSNH’s generation assets from its rate base.

The remainder of our comments is divided into two parts – 1) overall principles for New Hampshire’s electric energy market, and 2) more details regarding our recommendations.

I. Principles for New Hampshire’s Electric Energy Market

As a basis for the EPAB’s review in this forum and report, the findings of the legislature’s previous work should serve as the foundation from which to build. RSA 374 F:1 states: *A transition to competitive markets for electricity is consistent with the directives of part II, article 83 of the New Hampshire constitution which reads in part: "Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it." Competitive markets should provide electricity suppliers with incentives to operate efficiently and cleanly, open markets for new and improved technologies, provide electricity buyers and sellers with appropriate price signals, and improve public confidence in the electric utility industry.*

An important consideration for the EPAB, particularly in the electric sector, is that customers are just now beginning to migrate into the competitive electric market. CNE has recently signed retail electricity contracts with customers representing over 100 MW of load. These medium and large commercial and industrial customers perceived real benefits to them from the array of products and services provided by the retail competitive marketplace. In particular the procurement structures employed by Unitil and National Grid are conducive to retail competition and provide useful models for the entire state.

Although the EPAB’s current task is to craft recommendations for executive and legislative action, such consideration should be approached from a shared policy foundation. Thus, in order to best provide for a New Hampshire Energy Policy that ensures security, affordability, and sustainability, some basic public policy principles should be adopted. Constellation Energy offers the following policy principles to guide New Hampshire’s electric energy market:

1. Regulated distribution and transmission assets should be separated from generation assets;

2. The market should enable energy suppliers to effectively compete for customers' business and offer diverse energy products to best serve the state's electric consumers;
3. The state's approach to generation should encourage private investment, with shareholders, not captive ratepayers, bearing the investment risk; and
4. The state's role in crafting energy policy should embrace market approaches.

As the EPAB considers the future direction of the state's electric energy market, these principles should guide its policy choices.

II. Crafting New Hampshire's Public Energy Policy: Short, Medium and Long Term Policy Initiatives

Short Term Initiatives: Policy-makers should evaluate a host of measures that will encourage conservation, develop new renewable resources, and provide immediate tools for residents to lower their energy costs

As a response to increased energy costs a number of state governments have initiated short-term programs that seek to mitigate adverse cost impacts on consumers as well as act as catalysts for programs that will reduce usage, encourage conservation and develop new renewable resources. The current EPAB policies which are outlined in the NH Energy Policy and its recent June, 2006 update need to be addressed by state and legislative leaders. Further, those policy recommendations that require legislative action should be enacted in the next legislative session.

In addition to these efforts, the following should be considered:

- Establishing an "Energy" class line in the State operating budget to allow for better tracking and consolidation of costs at the state agency level. This will better enable the State to procure energy on a more competitive basis. The Department of Revenue Administration MS42 and MS2 forms which record County and municipal expenditures should also be updated to include an energy cost line item.
- Use the State's Capital Budget to set aside energy efficiency dollars for state buildings and other programs which will require up front investment.
- Updating the NH Energy Plan's base case energy cost modeling in order to serve as a tool for executive and legislative planning and policy development.

Recently enacted legislation in Massachusetts offers some direction on the types of valuable short-term actions that can be undertaken at the state level. New Hampshire legislators could consider any of the following initiatives recently enacted in Massachusetts:

- Appropriates \$20 million for Low Income Home Energy Assistance Program ("LIHEAP");
- Extends the Systems Benefit Charge to fund energy efficiency programs through 2012;

- Raises the electric and gas low-income eligibility rate from 175% to 200% of the national poverty level;
- Provides for a home heating income tax deduction for oil and natural gas;
- Provides energy efficiency tax credits to residential users;
- Provides a business tax credit for the installation of solar water heating units;
- Establishes a fuel cell initiative; and
- Creates zero interest loans for photovoltaic systems and zero interest loans for energy efficient home improvements.

Attached please find a summary of the H 4438 “An Act Relative to Heating Energy Assistance Tax Relief (HEAT).” In addition please find the comments of Constellation Energy to the Connecticut Raised Bill 5818. The comments address many of the short-term options being considered by the Connecticut Legislature as well as address many of the recent studies that evidence the benefits of electric industry restructuring in various jurisdictions.

- **Medium Term Efforts:** In the medium-term, the Legislature should consider three options:
 1. Require PSNH to issue a RFP for the procurement of 25-30 percent of PSNH’s Default Service portfolio.
 2. Require the PUC to open a docket to evaluate the criteria for PSNH divestiture.
 3. Require PSNH to bid its entire load into the marketplace and also to sell all of its generation into the marketplace. PSNH would then take the premium between the cost of its generation and what it receives from the marketplace and apply it to reduce stranded costs.

1. RFP - PSNH obtains approximately 25% to 30% of its default service requirement through market purchases. These purchases are a significant price driver in the PSNH default service portfolio, yet they are not procured through any type of transparent, market-based process. As a medium term step to address energy prices, this purchased load requirement should be procured in the same fashion that purchased default service requirements are acquired for other electric utilities in New Hampshire. To achieve this, the Commission should require that PSNH issue a request for proposal to supply the non-owned portion of the PSNH supply.

2. PUC Docket - The Commission should initiate a proceeding to address the issue of divestiture of PSNH’s remaining generation assets. The current standard used to determine the appropriateness of divestiture of PSNH’s assets is when such a divestiture is “in the interest of the retail customers of PSNH.” The law leaves many of the details of this approach open to Commission interpretation. In order to assist in making an informed determination about divestiture, the Commission should establish a firm standard for what constitutes the interest of retail rate payers. Such a standard would investigate the value of risks associated with ownership, the likely

value of such assets, the elimination of rate of return on utility owned generation, risk sharing and the predicted load requirements of PSNH's default service in the future. Failure to divest at a time when it is indeed in the interest of ratepayers would likely lead to exposure to risk of uneconomic investment. This statutory standard suggests that the divestiture should come at a point where the value is at its highest and in a fashion that will best reduce risk of ownership to customers. The value of Capacity payments and the risk associated with expensive environmental upgrades are all factors that the Commission should consider when attempting to determine the "retail interest of ratepayers."

3. Bid load and generation into the marketplace. The Legislature should consider requiring PSNH to bid its entire load into the marketplace and, at the same time, sell all of its generation into the marketplace. Due to the fact that the vast majority of PSNH assets are coal and oil-based, the market price for these assets is likely to be higher than the cost to generate. The premium obtained should be used to reduce stranded costs. The benefits of this approach are two fold. First, stranded costs will be reduced immediately. Second, the price set for default service will reflect the actual market price of electricity which will allow retail competition to flourish. The overall price to consumers will remain the same as the stranded cost charge will be reduced exactly by the increase in the energy cost.

Long Term Strategy: The PUC and the Legislature should finish the implementation of the PSNH Electric Industry Settlement by requiring the separation of PSNH's generation assets from its rate base

Once the PUC has set the stage for the possible divestiture of PSNH's remaining generation assets, the state needs to complete PSNH's restructuring process. The other major electric utilities in New Hampshire – National Grid and Unitil – have completed their restructuring process. Their customers have the ability to purchase from the retail market and the utilities procure default service on a wholesale basis from wholesale suppliers on a competitive basis. In order to allow PSNH customers to benefit from competitive retail and wholesale markets as envisioned by the 2000 Electric Utility Restructuring Settlement, PSNH needs to complete the separation of its generation assets from rate base. This can be done pursuant to the divestiture criteria established by the PUC or through other means such as requiring PSNH to separate its generation business from its regulated transmission and distribution business, and operating its assets on a merchant basis. Regardless of the PUC's preferred approach, the risk of the operation and maintenance of PSNH's generation assets should not be borne by New Hampshire ratepayers.

Constellation Energy appreciates the opportunity to submit these comments. Please feel free to contact us with any questions.

Respectfully submitted,

Handwritten signature of Thomas E. Bessette in cursive, with the initials 'EAK' at the end.

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Attachment A

An Act Relative to Heating Energy Assistance Tax Relief (H.E.A.T.)

- 1. Appropriate \$20 Million for LIHEAP (Low Income Home Energy Assistance Program)**
 - Two phase state disbursement: \$5 million available immediately, fifteen million appropriated as soon as all federal funds have been awarded and/or exhausted.
- 2. Extend the Systems Benefit Charge Collected on Gas and Electric Utilities**
 - Extend the existing utility energy efficiency \$0.0025 per kilowatt hour charge that funds the Residential Conservation Service Program, for an additional five years through 2012.
- 3. Raise Electric and Gas Low-Income Eligibility Rate from 175% to 200%**
- 4. Establish Low-Income Arrearage Program**
 - Require gas and electric companies to coordinate with the Department of Telecommunications and Energy a program to assist low income customers in dealing with their overdue payments and help to prevent utility shutoffs.
- 5. Home Heating Income Tax Deduction for Oil and Natural Gas**
 - Deduction of up to \$800 for home heating oil and natural gas expenses.
 - For individuals with incomes up to \$50,000 and joint filers up to \$75,000.
 - Applies to renters if their heat is included in their rent.
- 6. Energy Efficiency Tax Credits**
 - Credit up to \$600 toward purchase of residential energy efficient heating items such as: home insulation, new windows, advanced thermostats, and energy efficient furnaces.
- 7. Business Tax Credit for Installation of Solar Water Heating Units**
 - One-time tax credit of 15% or \$300 to Massachusetts businesses to offset the cost of purchasing a solar water heating system.
- 8. Massachusetts Green Building Plan**
 - Direct Division of Capital Asset Management and the Massachusetts Technology Park Corporation to develop a plan to promote green building technology in the state.
- 9. Establish Fuel Cell Initiative**
 - Develop a plan to accelerate the development of technological advancement in fuel cell technology.
- 10. Generate Energy Discount Public Awareness Program**
 - Department of Telecommunications and Energy directs Massachusetts utility companies to disburse mailings to consumers on the availability of cost saving discounts and rebates.
- 11. Create Zero Interest Loans for Photovoltaic Systems**
 - Direct Massachusetts Technology Park Corporation to provide at least \$1 million in zero interest loans to residential customers to offset the cost of a photovoltaic system.
- 12. Create Zero Interest Loans for Energy Efficient Home Improvements**
 - Direct Division of Energy Resources to provide at least \$5 million in zero interest loans for energy efficiency residential improvements.
 - Funded from the Residential Conservation Service Program's system benefit charge administered by all Massachusetts gas and electric utilities.

Attachment B

Written Comments of Daniel W. Allegretti
Vice President, Regulatory Affairs - Constellation Energy Commodities Group, Inc.
Before the State of Connecticut
General Assembly's Energy Summit (May 17, 2006)

Dear Mr. Speaker:

My name is Daniel W. Allegretti and I am Vice President, Regulatory Affairs for Constellation Energy Commodities Group, Inc. ("CCG"). I am submitting these comments to you on behalf of CCG and its affiliate, Constellation NewEnergy, Inc. ("CNE") (collectively, "Constellation").

Constellation appreciates the opportunity to have participated in the Connecticut Legislature's Energy Summit on May 17, 2006. As a follow up to our participation, we offer the following comments on the working draft of Raised Bill 5818. As stated at the Summit, Constellation opposes this bill. We do believe certain sections of the bill such as those addressing energy efficiency and energy assistance programs represent positive steps to address near-term energy cost issues in Connecticut. Unfortunately, many sections of the bill, well intended though they are, will impede new investment in the State, disrupt business expectations, and most importantly raise costs for Connecticut customers. Most troubling among these provisions are those that return to a model of regulated generation investment and recovery from captive ratepayers of all the attendant costs. This bill in many places replaces market incentives with potential new stranded costs, and offers no guarantee of lower energy costs for Connecticut consumers. Constellation believes the best approach for the Legislature to take is to continue to implement its 2005 Energy Independence Act and at most consider minor enhancements to that legislation in the areas of energy efficiency and energy assistance programs, such as those provisions found in Sections 1-4 and 77-80 of the working draft.

Our comments are in two parts – overall concerns with the policy direction of this working draft and specific comments on sections of the working draft.

Constellation's Overall Position

Constellation appreciates the challenges that increased electric costs pose for ratepayers. However, we believe abandoning competitive markets at this juncture will cause more harm than good for Connecticut businesses and citizens. Provisions of the working draft move Connecticut backward on a path of return to the old electric industry structure of generation

investment by a monopoly utility with captive ratepayer recovery on a regulated cost plus return basis. Experiences on the state and regional level illustrate that this abandoned model for the electric industry is not in the ratepayers' interest. The consensus found in recent economic literature and policy analyses conclude that competitive markets have delivered more efficiency and savings to ratepayers than would have been realized under the old regulatory model, even though energy costs overall have risen.

Looking first at Connecticut's experience, Connecticut Light and Power ("CP&L") customers will be paying Competitive Transition Charges ("CTC") through 2024. The CTC, or stranded cost charges are the most compelling illustration of the difference between the cost of electricity under competition and under regulation. The concept of the CTC is that it represents a "make-whole" payment for utilities to recover costs that were incurred in the regulated industry structure that would be uneconomic in competitive markets. Under the Restructuring Act the Legislature determined that utilities are eligible to recover the difference between the cost of their power plant investments and what they could recover from a sale of the plants or their output in the competitive market. The Department conducted extensive hearings with a full evidentiary record to establish the amount of stranded cost that is recoverable, which amounts to billions of dollars. The State in turn has provided an iron clad guarantee of these amounts which are being recovered through the CTC from all Connecticut electricity customers, regardless of where they buy their electricity.

A return to this old structure of allowing rate-based generation construction – without the benefit of a competitive process to transfer the risk of uneconomic investments – threatens to re-start the clock for ratepayers in terms of incurring new stranded costs.

The experience with merchant generation on the regional level offers an alternative to rate-based generation and cost-of-service ratemaking. Under this model, a developer evaluates market signals and structure, and then makes the most cost-effective investment that will generate returns. The regional clearinghouse approach to switching on or "dispatching" power plants based on the lowest variable cost ensures that electricity will be produced from the lowest cost sources in New England. The key difference in the merchant model approach over the cost-of-service approach is what happens if a developer – regardless of market signals – makes an unprofitable investment in a plant. Under the old utility model, ratepayers would be left

holding the bag and paying for over-runs, inefficiencies, and out of market costs. Under the merchant model, private investors take all the risks. The example of the Exelon Mystic units in Boston illustrates this point well. When Exelon defaulted on its investment, the company turned the property over to debt-holders. There was no mechanism for recovery of the uneconomic costs to build these plants from ratepayers. Exelon had to write off hundreds of millions of dollars and the consumers in Boston were never obligated to make them whole for it. Equally important, local and regional reliability was never impaired as the debt-holders brought experienced people in to operate the plants and protect their collateral, causing no interruption of reliable energy from the plants.

Recent economic and policy studies on electric competition reinforce the consensus that competitive electric markets deliver greater value for consumers than the old cost-of-service model. The following studies, published within the last year, reinforce these points:

- ***Global Energy Decisions: The Benefits of Competition in America's Electric Grid: Cost Savings and Operating Efficiencies*** (July 2005). GED's analysis of the Eastern Interconnection concluded that wholesale competition is working. The study found that wholesale competition has led to lower wholesale costs and more renewable resource options. From 1999 to 2003, consumers realized \$15.1 Billion in value due to wholesale competition. Moreover, GED found that there has been a dramatic improvement in power plant operating efficiency, with PJM's wholesale power customers saving \$85.4 million in production costs.
- ***CERA: Beyond the Crossroads: Future Directions of Power Industry Restructuring*** (June 2005). CERA's study concluded that real power prices are lower compared to the previous regulated period and what prices would have been if traditional regulation had continued. Further, CERA found that the majority of U.S. consumers have paid less for electricity since the onset of power system deregulation, realizing cost savings of \$34 billion. CERA observed that the average U.S. real price of power declined over the era of deregulation from 1997-2004.
- ***Perryman Group: Electric Competition: Four Years of Cost Savings and Economic Benefits for Texas and Texans*** (April 2006). The Perryman Group concluded that since the introduction of retail competition in Texas' electric market, Texans have realized substantial savings compared to what they would have paid in a regulated environment. Last year, these direct savings reached an estimated \$3.611 billion. The Perryman

Group further found that the impact of these cost savings provided an annual stimulus to the Texas economy of \$9.73 billion in total expenditures, \$4.64 billion in gross product and almost 47,800 permanent jobs. The Perryman Group also noted a positive impact on new electric generation development, with an addition of 25,000 MW of new capacity.

- **Analysis Group: *Electricity and Underlying Fuel Prices: A Survey of Non-Restructured States*** (April 2006). The Analysis Group analyzed the recent history of electricity and underlying fuel prices in several states to better understand the potential effects of disparate regulatory and fuel mix settings on electricity prices across the country. The key finding was that the trend of increasing prices for electricity is not unique to states that have allowed for retail competition. The Analysis Group concluded that increases in fossil fuel prices used to produce power are being passed along to consumers in the form of higher electricity prices in both restructured and non-restructured states.
- **New York Department of Public Service: *Staff Report on the State of Competitive Energy Markets: Progress to Date and Future Operations*** (March 2006). The New York State's DPS evaluation of the state's wholesale market found that wholesale competition had led to significant efficiencies. The total real (inflation-adjusted) electric price for a typical residential retail customer in New York dropped by an average of 16 percent between 1996 and 2004. Most commercial and industrial customers saw decreases in their real energy bills as well. Other benefits include new generation constructed in load pocket areas, increased generator availability, and the preserved safety and reliability of the power system.
- **The AIM Foundation: *Electricity Industry Restructuring in Massachusetts: Progress in Achieving the Goals of the Restructuring Act*** (December 2005). The Associated Industries of Massachusetts Foundation's study of seven years of data since the passage of the Massachusetts Electricity Restructuring Act in 1997 found significant economic benefits for all classes of consumers in the Commonwealth and significant environmental benefits. Consumers saved over \$2 billion and are provided a choice of retail supplier. In addition, emissions from the generation of electricity decreased up to 45% even though electricity production increased by 20%.
- **ISO-NE: *The Benefits of ISO's and RTO's*** (April 2005). The ISO-NE evaluation of the New England wholesale market found a host of regional benefits from electric competition. On a cost level, there were wholesale market cost reductions of \$700 million annually, with electric prices (adjusted for fuel costs) declining by 5.7 percent

since 1997. Regionally, there has been \$9 billion in power plant investment from 2001-2004 providing 10,000 MW of efficient new capacity with environmental improvements resulting from reductions of CO₂, NO_x and SO₂ emissions.

Constellation Comments on Specific Sections of Raised Bill 5808

In addition to Constellation's concerns on the overall policy direction of the Raised Bill 5808, this portion of our comments addresses specific sections of the working draft of this bill.

Constellation opposes several sections of this bill because we believe the "fixes" in these sections merely represent a recipe for increased consumer costs. Specific sections that we believe will add to increased costs include:

- **Sections 45 and 47, Class III Renewable Resources.** Expanding the definition of Class III resources to include all cogeneration facilities is a recipe for increased costs. Adding all cogeneration facilities to Class III includes a vast percentage of the region's gas-fired generation, exacerbating the region's reliance on more expensive gas-fired resources. On a regional market level, making more refinements to Connecticut's supply portfolio mandates is problematic. In order to achieve the goals of the three classes of mandates already in place investors need some certainty and stability as to the demand for these special types of resources. Lawmakers undermine the incentives the mandates create when they perennially look to modify and tinker with the types of resources being mandated. Investors make investment decisions based on the stability of a market and an ever-changing statute creates market uncertainty and disincentives for the type of investment necessary for an effective program.
- **Section 53, Standard Service Procurement and Pricing.** Constellation opposes proposed language in Section 53 (c)(2) that provides that the "department shall establish rates for electric generation services to assure that customers who leave standard service continue to pay an appropriate amount of the costs of electricity for such service." This is known as an exit fee and it is something all of our business customers deplore. By making customers give back the money they save by switching to a competitive electric supplier the exit fee defeats the whole point of retail choice. In addition, under current law it is totally unnecessary. When suppliers bid to provide standard service supply, they accept and manage the risk of an uncertain quantity of electricity that will be required, depending on how many customers migrate to

competitive suppliers. In other words, the current law does not cause utilities to incur obligations that create potentially stranded investments and no exit fee mechanism is needed to recover such investments.

Within the last few months CNE signed retail supply contracts with over thirty Connecticut manufacturing companies as part of an aggregated power pool established by the Manufacturing Alliance of Connecticut and 68 municipalities and school districts, including West Hartford, Cheshire, New Britain and Monroe under the auspices of the Connecticut Consortium. All of these contracts are long-term and will result in significant savings. Had an exit fee been in place it is highly unlikely that these contracts would have been entered into. In short, imposition of an exit fee would seriously impair retail competition in the state of Connecticut just as it is beginning to flourish.

- ***Section 55 and 57, Repeal of Existing RFP Process, Initial RFP and new RFPs.***

These sections represent a return to the old cost-of-service, regulated generation market structure that led to CL&P customers paying CTC charges through 2024. Last year, the Legislature painstakingly negotiated and crafted the 2005 Energy Independence Act (“EIA”). This act took a pragmatic stance toward addressing Federally Mandated Congestion Charges (“FMCCs”) and creating an environment for new generation resource investment in Connecticut. Section 57 would repeal these provisions before even allowing them to be fully implemented. Section 55 requires the Electric Distribution Companies (“EDCs”) to prepare Integrated Resource Plans (“IRPs”) and issue three sets of RFPs – a 500 MW peaking generation RFP only for EDCs, a second RFP for peaking resources only for non-EDC companies, and a third RFP for response by all companies. The first RFP practically guarantees the EDCs 500 MW of rate-based generation and the second RFP effectively caps the profits that non-EDCs companies could make on their investment at regulated cost of service rates, without the same assured recovery of all costs incurred that the regulated EDCs enjoy. This is a process engineered for failure. Merchant generators would have little upside potential, but have to bear all the downside risks. As discussed earlier in our comments, these sections of the working draft put the ratepayer back in the business of financing new investment, and allow rate recovery even for less than cost-efficient investments. Connecticut should adhere to the RFP process embodied in the EIA. This allows for all companies to compete on an equal

basis, and ensures that the most cost-effective proposal will be chosen and financed through shareholder – not ratepayer – money.

- **Section 56, DPUC Proceeding.** This section puts the state of Connecticut in the role of generation development by allowing the state to potentially serve as builder of last resort if not enough generation is acquired through Section 55's RFP processes. The State of Connecticut should not be in the generation development business. As demonstrated by the Exelon/Mystic Unit example, the best entity to finance and build new generation resources is one funded by shareholder – not ratepayer or in this case, taxpayer – money. A bad investment by merchant generators hurts shareholders; a bad investment by the state hurts taxpayers. Further, the state is not the entity most skilled to efficiently build generation resources, thus doing little to help mitigate costs of such resources. Indeed, many citizens remain concerned with the experience of the Connecticut Resource Recovery Authority, whose past losses must still be recovered through waste disposal fees.
- **Section 66, Allowing EDCs Back in the Generation Business.** For all the reasons stated throughout Constellation's comments, we oppose this section and its repeal of the ban on utility-owned and operated generation.

Constellation also has concerns with the following sections:

- **Section 59, Performance of Net Energy Analysis.** This section requires the CEAB to perform a net energy analysis for any proposed energy facility in excess of 25 MW. Constellation questions the purpose and utility of this analysis. Such a sophisticated analysis will require time and resources, which may be limited, will require a number of debatable assumptions to be made and will not answer the fundamental question of how to balance the demand for and supply of electricity in Connecticut to meet the needs of its citizenry. The working draft does not provide as to how the analysis will be used or applied, hence we recommend this section not be adopted.
- **Section 64, Ongoing IRP.** Constellation opposes this section as a return to Integrated Resource Planning is merely a return to the old utility model. Constellation does not

believe regulated companies should be mandated to develop and implement their own resource plans. A better approach is contained in Section 68 of the working draft which engages the CEAB to involve a range of stakeholders and develop a comprehensive examination of needs and resources for all stakeholders to respond to.

- **Section 67, DPUC Commissioners.** The role of the DPUC is to consider the public interest in balancing issues of economic growth, development and the environment in considering utility policies. Important advocacy on behalf of consumers is provided by the Office of Consumer Counsel and the Attorney General's office. Creating another advocate for consumers within the DPUC is not productive and does not advance the mission of the DPUC.

Although Constellation opposes the overall policy direction of this legislation, we believe there are some provisions that are appropriate for the Legislature to take to provide near-term energy cost mitigation for consumers. In particular, Constellation supports the following sections:

- **Sections 1-4, Energy Efficiency Initiatives.** These sections establish an energy efficiency replacement furnace program, an air conditioner replacement program, and require EDCs and suppliers to waive demand charges for fuel cell operations during certain times. Constellation believes energy efficiency measures such as these offer the best strategy for immediate, near-term reductions in energy costs.
- **Sections 68 and 69, CEAB Studies.** Constellation believes these sections offer a more appropriate approach to resource planning than the EDC IRP approach found in Section 55. These sections would allow the CEAB to assess resource and infrastructure issues on a statewide basis. Results of this analysis would be shared with all shareholders in an open process instead of the out-dated IRP process.
- **Sections 77-79, Energy Assistance Programs.** Constellation believes energy assistance programs such as those found in these sections provide another useful tool to addressing the impacts of high electric costs. These sections provide for a Connecticut Energy Assistance program, a discounted fuel purchasing program and an extension of the winter shut-off moratorium.

Thank you again for the opportunity to participate and submit these comments. I will be happy to answer any question you may have.