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July 3, 2008

VIA EMAIL

Ms. Wendy Jacobs
Connecticut Department of Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, Connecticut 06106

Re: Comments of the Connecticut Industrial Energy Consumers on the Draft Report by Synapse Energy Economics, Inc.

Dear Ms. Jacobs:

Pursuant to your email request on June 17, 2008, the Connecticut Industrial Energy Consumers ("CIEC"), an ad hoc coalition of industrial and commercial energy consumers with facilities throughout Connecticut, hereby submits these comments to the Department of Environmental Protection ("DEP") regarding the June 10, 2008 draft report prepared by Synapse Energy Economics, Inc.[1] As set forth below, CIEC urges DEP to develop a High Electric Demand Day ("HEDD") strategy that will exact the least possible cost on Connecticut electricity consumers that can ill-afford additional increases to the cost of electricity. Accordingly, DEP should adopt the three percent level for energy savings associated with energy efficiency. Such a level would allow DEP to meet its agreed to emissions reductions targets for HEDDs without unnecessarily increasing the cost of electricity to the State's consumers.[2]

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[1] *See* Synapse Energy Economics, Inc., *Reducing Emissions in Connecticut on High Electric Demand Days (HEDD): A Report for the CT Department of Environmental Protection and the US Environmental Protection Agency* (June 10, 2008), available at http://www.ct.gov/dep/lib/dep/air/energy/ct_hedd_report_06-12-08_12noon.pdf (hereinafter, "Draft Synapse Report").

[2] Connecticut has committed to reduce nitrogen oxide (NO_x) emissions on HEDDs by 11.6 tons per day by 2012. *See* Ozone Transport Commission, *Memorandum of Understanding Among States of the Ozone Transport Commission Concerning the Incorporation of High Electrical Demand Day Emission Reduction Strategies into Ozone Attainment State Implementation Planning* (March 2, 2007), pp. 2-3, available at http://www.otcair.org/document.asp?fview=Formal%20 Actions# (hereinafter, "HEDD MOU"); and Draft Synapse Report at 31.

Connecticut electricity consumers currently pay the highest electricity prices in the contiguous United States and the second highest prices in the entire country.[3] In fact, the State's electricity consumers paid up to 99 percent more for electricity than the national average in 2007.[4] As acknowledged in the Draft Synapse Report, implementing a HEDD strategy that applies new regulations to electric generation facilities will increase the cost of electricity, to the detriment of the State's electricity consumers and economy.[5] Given the already steep price the State's consumers pay for electricity, coupled with the increasing cost of fuel and the current economic condition of the State and nation, it is critical that DEP develop a HEDD strategy that seeks to minimize, if not completely eliminate, any additional increases to the cost of electricity in the State.

The Draft Synapse Report reveals that an effective strategy exists to achieve the required reductions of the HEDD MOU without unnecessarily increasing the cost of electricity to consumers. This strategy involves providing full recognition for the emissions reduction benefits provided by energy efficiency. In fact, the Draft Synapse Report concluded that if energy efficiency initiatives in the State can provide three percent energy savings, Connecticut could meet the NO_x emissions reductions required by the HEDD MOU by 2012 without the need to implement additional regulations.[6] Significantly, the HEDD MOU provides the State until 2012 to achieve the required reductions.[7] Accordingly, by adopting an energy savings level of three percent from energy efficiency, DEP can ensure that the State is able to comply with the HEDD MOU. Moreover, by properly accounting for the full benefits associated with the State's energy efficiency initiatives, no additional requirements would be imposed on any electric generation facilities. Thus, the cost of electricity in the State will not be increased by the implementation of a HEDD strategy that relies solely on the State's robust energy efficiency initiatives – a true win-win scenario for the State, its consumers, and the environment.

Furthermore, adopting a three percent energy savings level for energy efficiency in Connecticut is reasonable. The Draft Synapse Report acknowledges that the State's current

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[3] Energy Information Administration ("EIA"), *Average Retail Price of Electricity to Ultimate Customers by End-Use Sector, by State*, available at http://www.eia.doe.gov/cneaf/electricity/epm/epmxlfile5_6_a.xls.

[4] *Id*.

[5] Draft Synapse Report at 4.

[6] *Id*. at 31.

[7] HEDD MOU at 2.

energy efficiency initiatives provide one percent energy savings.[8] However, savings of two percent can be attained by the end of 2009 based on the 2008 Conservation and Load Management Plan ("2008 CL&M Plan") submitted to the Department of Public Utility Control ("DPUC") for review.[9] To achieve two percent energy savings from energy efficiency, the 2008 CL&M Plan requested a total budget of approximately $121 million.[10] Significantly, the DPUC recently approved a total budget of approximately $137 million for this plan.[11] Therefore, no reason exists why the State's energy efficiency initiatives should not be able to reach the two percent energy savings level by the end of 2009.

The State's current energy efficiency initiatives (*i.e.*, providing one percent energy savings) provide a reduction in load of approximately 50 MW per year.[12] Thus, to increase to a three percent energy savings level, energy efficiency would need to provide approximately 150 MW of load reduction per year. ECMB estimates that deploying all cost-effective energy efficiency measures within the State could provide at least 160 MW of load reduction per year (*i.e.*, enough to meet the required reduction to provide three percent energy savings from energy efficiency).[13] To achieve this level of load reduction, ECMB has

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[8] Draft Synapse Report at 13.

[9] *Id*. at 29.

[10] Connecticut Light and Power Company and the United Illuminating Company, *Conservation and Load Management Plan 2008* (October 1, 2007), p. 20, available at http://www.ctsavesenergy.org/files/FINAL%202008%20ELECT%20PLAN_Rev%209-27-07.pdf.

[11] Docket 07-10-03, *DPUC Review of the Connecticut Light and Power Company's and the United Illuminating Company's Conservation and Load Management Plan for the Year 2008*, Decision (June 19, 2008), p. 10.

[12] Energy Conservation Management Board ("ECMB"), *Report of the Energy Conservation Management Board Year 2007 Programs and Operations* (March 1, 2008), p. 12, available at http://www.ctsavesenergy.org/files/ECMB%202007%20FINAL%2002.20.08.pdf.

[13] *Id*.

determined that at least approximately $96 million would need to be invested in energy efficiency annually.[14]

The current level of funding provided to the Systems Benefits Charge ("SBC") in Connecticut, which provides funding for energy efficiency initiatives, is approximately $87 million annually.[15] This leaves a gap of approximately $9 million to be within the annual funding range required to achieve three percent energy savings from energy efficiency. The Regional Greenhouse Gas Initiative ("RGGI") that DEP plans to implement by January 1, 2009 will easily provide the funds necessary to cover this gap. A significant portion of the funds realized by the sale of CO_2 emissions allowances ("Allowances") pursuant to RGGI are intended to be invested in energy efficiency initiatives. The Draft Synapse Report utilized an Allowance cost of only $3 per ton to account for the impacts of RGGI.[16] At this Allowance price level, Connecticut would attain nearly $25 million in additional annual funding that could be available for spending on energy efficiency.[17] Such an amount, coupled with sustaining the current SBC funding level, would result in a level of funding (*i.e.*, $112 million annually) that is comfortably within the range necessary to achieve three percent energy savings from energy efficiency.

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[14] GDS Associates, Inc., *Independent Assessment of Conservation and Energy Efficiency Potential for Connecticut and the Southwest Connecticut Region – Final Report* (June 2004), p. 29, available at http://www.ctsavesenergy.org/files/CT_EE_MaxAchievable Potential%20Final%20Report-June%202004.pdf. The report states that funding in the range of $82 million to $148 million in 2003 dollars would be required to achieve 160 MW of load reduction per year.

[15] Synapse Energy Economics, Inc., *Meeting CT's OTC Commitment: Energy Efficiency and Emissions Controls* (May 28, 2008), p. 28, available at http://www.ct.gov/dep/lib/dep/air/energy/ct_ee_2008_ctdep_pres_5-28-08.pdf.

[16] *Id*.

[17] This amount was derived based on Connecticut auctioning 77 percent of its total available Allowances in 2009 in the regional auctions, consistent with DEP's currently proposed regulations to implement RGGI. *See* DEP, *Hearing Report Regarding Regulations for the Abatement of Air Pollution: Proposed Adoption of Section 22a-174-31 and Proposed Adoption of Section 22a-174-31(a) of the Regulations of Connecticut State Agencies* (April 15, 2008), p. 187, available at http://www.ct.gov/dep/lib/dep/public_notice_attachments/draft_regulations/final_draft_hearing_report_april_15_2008.pdf (hereinafter, "RGGI Hearing Report").

Moreover, this estimated level of funding from RGGI is likely far below what the actual level will be. The estimated Allowance price used in the Draft Synapse Report was, in part, based upon the estimated cost of Allowances determined in the analysis provided by ICF Consulting ("ICF"), which DEP has relied upon.[18] In projecting its unrealistically low Allowance prices, the ICF Analysis utilized an assumed natural gas price of approximately $7 per MMBtu and oil prices of only approximately $35 per barrel.[19] In reality, the current price of natural gas exceeds $12 per MMBtu[20] (*i.e.*, nearly double the assumed price used by ICF) and oil prices exceed $125 per barrel (*i.e.*, more than 3.5 times greater than the assumed price used by ICF).[21]

Furthermore, the ICF Analysis predicted Allowance prices resulting from the auction would range from approximately $2 per ton in 2009 increasing to approximately $5 per ton in 2024.[22] In fact, the first trade for vintage 2009 Allowances was conducted at $7 per ton (*i.e.*, nearly 3.5 times greater than the assumed 2009 Allowance price projected by ICF and nearly 1.5 times greater than the highest Allowance price projected by ICF).[23] Moreover, the price of vintage 2009 Allowances has increased with each successive trade, and, in just three months since the first trade, has increased nearly 30 percent to approximately $9 per ton (*i.e.*, nearly 4.5 times greater than the assumed 2009 Allowance price projected by ICF and nearly double the highest Allowance price projected by ICF).[24] Therefore, RGGI is likely to produce Allowance prices that are orders of magnitude greater than $3 per ton, thus

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[18] ICF, *RGGI Package Scenario* (updated 10/11/06), available at http://www.rggi.org/docs/packagescenario_10_11_06.xls (hereinafter, "ICF Analysis").

[19] ICF, *Assumption Development Document: Regional Greenhouse Gas Initiative Analysis*, pp. 33-40, available at http://www.rggi.org/docs/ipm_assumptions_2_10_05.ppt.

[20] New York Mercantile Exchange ("NYMEX"), *Natural Gas Session Overview*, available at http://www.nymex.com/ng_fut_cso.aspx.

[21] NYMEX, *Light Sweet Crude Oil Session Overview*, available at http://www.nymex.com/lsco_fut_cso.aspx.

[22] ICF Analysis.

[23] Evolution Markets, *Koch Supply & Trading LP, Texas Environmental Partners, Complete Landmark RGGI Carbon Allowance Trade* (March 18, 2008), available at http://new.evomarkets.com/pdf_documents/Evolution%20Brokers%20First%20RGGI%20Allowance%20Trade.pdf.

[24] Argus Media Inc., *Argus Air Daily* (June 6, 2008), p. 1, available at http://www.argusmediagroup.com.

providing substantial additional annual funding for energy efficiency initiatives. Accordingly, there is every reason to believe that the current SBC funding, when coupled with funding to be provided by RGGI, will be sufficient to sustain the range of annual funding that ECMB has determined necessary to attain three percent energy savings from energy efficiency in Connecticut.

Assuming, *arguendo*, that DEP does not adopt a three percent energy savings level for energy efficiency, which would allow the State to comply with the HEDD MOU without increasing the cost of electricity to consumers, then DEP should adopt a two percent energy savings level for energy efficiency and seek to implement HEDD regulations that apply only to the previously identified load following boilers that are the most significant contributors to high NO_x emissions on HEDDs.[25] The Draft Synapse Report concluded that such a strategy would also allow the State to comply with the HEDD MOU by 2012.[26] As demonstrated above, no reason exists to believe that the State cannot achieve two percent energy savings from energy efficiency. In adopting such a strategy, DEP should not apply HEDD regulations to any units other than those already identified as the principal causes of the high NO_x emissions on HEDDs. Such a limited application will help to mitigate the cost impacts to Connecticut consumers by minimizing the number of affected electric generation facilities that will seek to pass along the cost of such new regulations. Moreover, the Draft Synapse Report has provided no justification for applying HEDD regulations to on-site generation utilized by end-use consumers in the State. Accordingly, no such regulations should be implemented.[27]

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[25] The previously identified units are as follows: (1) Bridgeport Harbor Station Unit 2; (2) New Haven Harbor Unit 1; (3) Middletown Unit 2; (4) Middletown Unit 3; (5) Middletown Unit 4; (6) Montville Unit 5; (7) Montville Unit 6; (8) Norwalk Harbor Station Unit 1; and (9) Norwalk Harbor Station Unit 2. *See* DEP, *Implementing High Electricity Demand Day (HEDD) Strategy* (January 10, 2008), p. 9, available at http://www.ct.gov/dep/lib/dep/air/siprac/2008/hedd.pdf.

[26] Draft Synapse Report at 31.

[27] Specifically, DEP should not impose any HEDD regulations on Customer-Side Distributed Resources, as defined in Section 16-1(a)(40) of the Connecticut General Statutes, for the reasons articulated in comments previously filed by CIEC regarding this matter, which are incorporated herein by reference. *See* CIEC, *Comments of the Connecticut Industrial Energy Consumers on the Development of a High Electric Demand Day Strategy for Connecticut* (March 14, 2008), pp. 1-3, available at http://www.ct.gov/dep/lib/dep/air/energy/couchwhiteheddcomments.pdf.

In addition, a fundamental flaw exists with the Draft Synapse Report that must be corrected to provide DEP all the necessary information to develop an effective HEDD strategy. DEP has proclaimed that one of the major benefits to implementing RGGI in Connecticut is that it will provide reductions in other emissions, such as NO_x, in addition to reducing CO_2 emissions. In fact, DEP cited as a principal reason in support of implementing RGGI that "reducing carbon emissions from the electric generators is an effective multi-pollutant strategy and should lead to reductions in the emissions of other pollutants associated with fossil fuel-based electricity generation (*e.g.*, NO_x, SO_2, and mercury)."[28] However, the Draft Synapse Report fails to account for the NO_x emissions reductions that will result from implementing RGGI. By failing to account for these reductions, DEP is in a position of attempting to develop an effective HEDD strategy without all the necessary information. Accordingly, DEP should estimate the NO_x emissions reductions that will be provided by the implementation of RGGI before proceeding with the development of a HEDD strategy for Connecticut.

For all the foregoing reasons, CIEC respectfully requests that DEP develop a HEDD strategy that imposes the least possible impact on the cost of electricity to Connecticut consumers.[29] Accordingly, DEP should adopt a HEDD strategy based on three percent energy savings being provided by energy efficiency in Connecticut, relying on the current SBC funding and future anticipated funding derived from RGGI to achieve and sustain such energy savings from energy efficiency. Such a strategy would allow the State to comply with the HEDD MOU by 2012 without causing any unnecessary, additional increases to the cost of electricity due to the implementation of a HEDD strategy in Connecticut.

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[28] RGGI Hearing Report at 106.

[29] A proposed HEDD strategy by the DEP, which creates more than a minimal impact to the cost of electricity or that includes regulations applicable to on-site generation, especially Customer-Side Distributed Resources, would cause great concern for, and likely opposition from, CIEC.

If you have any questions regarding these comments, please feel free to contact me directly. Thank you in advance for your careful consideration of these comments.

Very truly yours,

COUCH WHITE, LLP

Garrett E. Bissell

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