COUCH WHITE
COUNSELORS AND ATTORNEYS AT LAW

Couch White, LLP
540 Broadway
P.O. Box 22222
Albany, New York 12201-2222
(518) 426-4600

Garrett E. Bissell

Direct Dial: (518) 320-3437
Telecopier: (518) 320-3499
email: gbissell@couchwhite.com

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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 Development of a High Electric Demand Day Strategy for Connecticut

Dear Ms. Jacobs:

Pursuant to your request at the February 27, 2008 High Electric Demand Day ("HEDD") stakeholder meeting, the Connecticut Industrial Energy Consumers ("CIEC"), an ad hoc coalition of industrial and commercial energy consumers with facilities throughout Connecticut, hereby submits this letter to the Department of Environmental Protection ("DEP") as its comments on the development of a HEDD strategy for Connecticut. As set forth below, CIEC urges DEP to ensure that any HEDD strategy: (i) comport with the State's public policy to encourage the further development and use of Customer-Side Distributed Resources, as defined in Section 16-1(a)(40) of the Connecticut General Statutes ("CDRs"); and (ii) fully consider and accurately quantify the emissions reduction benefits associated with energy efficiency.

I. The HEDD Strategy Should Not Apply to Customer-Side Distributed Resources

The Memorandum of Understanding entered into by Connecticut regarding development of a HEDD strategy specifically states that any HEDD strategy should address and consider emissions from behind the meter generation units (i.e. distributed generation).[1] However, the imposition of emissions controls and/or performance standards on distributed

[1] 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), p. 2, available at http://www.otcair.org/document.asp?fview=Formal%20Actions# (hereinafter, "HEDD MOU").

generation resources must be consistent with the State's policy of encouraging end-use consumer investment in such resources and the realities of the operational limitations placed on CDRs that receive funding from the Connecticut Department of Public Utility Control ("DPUC"). Therefore, if DEP intends to include behind the meter generation within the HEDD strategy, it should exempt all CDRs, as defined in Section 16-1(a)(40) of the Connecticut General Statutes, from the scope of any such strategy.

As you may know, Public Act No. 05-01, An Act Concerning Energy Independence (the "Act"), established a goal "to provide Connecticut with additional means of addressing rising electric prices faced by the state's citizens and businesses."[2] In furtherance of this objective, the Act required that Connecticut develop a program to encourage the use of customer-side distributed generators to reduce peak system usage in Connecticut.[3] Specifically, pursuant to Section 8(a) of the Act, DPUC was required to, "no later than January 1, 2006, establish a program to grant awards to retail end use customers of electric distribution companies to fund the capital costs of obtaining projects of customer-side distributed resources…."[4]

The DPUC has conducted several proceedings to implement the requirements of the Act with respect to the encouragement of customer-side distributed generators.[5] In addition, the electric distribution companies have developed and implemented plans to facilitate the installation of such resources. In reliance upon this State policy, encouraging the growth of customer-side distributed generators, and its accompanying incentives, many Connecticut electricity consumers have devoted considerable time and economic resources, collectively incurring millions of dollars in expenses, to evaluate the practicality of such resources for their respective operations.

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[2] Docket 05-07-17, DPUC Review of the Development of a Program to Provide Monetary Grants for Capital Costs of Customer-Side Distributed Resources, Decision (March 27, 2006), p. 2.

[3] Id. at 10.

[4] Public Act 05-01, An Act Concerning Energy Independence § 8(a).

[5] See, e.g., Docket 05-07-17, supra, Decision (March 27, 2006) (developing a program to provide monetary grants for investments in customer-side DG resources); Docket 05-07-16, DPUC Review of the Development of a Program to Provide Various Incentives for Customer-Side Distributed Generation Resources, Decision (March 27, 2006); Docket 05-07-21, Development of Program to Provide Long-Term Financing for Customer-Side Distribution Resources, Decision (April 7, 2006).

To date, over 400 megawatts ("MW") of new customer-side distributed resources have been proposed, with over 320 MW receiving financial grants from the DPUC pursuant to Section 16-243 of the Connecticut General Statutes.[6] Importantly, to meet the Legislature's goal of utilizing distributed generation resources for peak load reduction and enhanced system reliability, DPUC has defined base-load distributed generation units eligible to receive funding as those that "operate at a 85% capacity factor or greater from 12:00 p.m. to 8:00 p.m. weekdays during the months of January and February and June through September."[7] Thus, as a condition of receiving funding from DPUC, distributed generators must operate on high demand days. Any HEDD strategy must be consistent with these State policies. Contrary to the purpose of the Act, application of any HEDD strategy to CDRs could require such units to incur potentially significant costs to implement emissions controls and comply with such a strategy, thus, negatively impacting the continued economic viability of such units and potentially resulting in shut-down or foregoing development of CDRs.

In order to remain consistent with the purpose of the Act, any HEDD strategy must provide a specific exemption for CDRs. Such an exemption would ensure that the HEDD strategy is consistent with Connecticut's public policy of encouraging the development and increased use of such resources. Moreover, such an exemption would harmonize the HEDD strategy with the realities of the operational requirements imposed by the DPUC on such distributed generation units.

II. DEP Should Accurately Quantify the Emissions Reductions Benefits Associated with Energy Efficiency

Consistent with other environmental regulations, implementation of any HEDD strategy in Connecticut that imposes new obligations on electric generation facilities will impact electricity consumers in the State because the electric generation facilities affected by such strategy will include the cost of compliance as additional operating costs within their bids to serve electricity in the markets administered by the ISO New England Inc. ("ISO-NE"). The inclusion of such costs will increase the value of the bids for such units, placing upward pressure on the wholesale electricity prices in the ISO-NE control area, including Connecticut. Moreover, because the current retail electricity supply rate structure in

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[6] DPUC, Summary of Applications and Grants, available at http://www.dpuc.state.ct.us/Electric.nsf/3736282216ef464085256b3c00755c3f/9c577f06cf96ca8d85257268005a456f/$FILE/121407%20DG%20Grants%20Summary-Public%20(version%201).xls.

[7] Docket 05-07-17, supra, Decision (March 27, 2006) at 23.

Connecticut charges commercial and industrial customers a market-derived rate, to the extent that any HEDD strategy increases the wholesale cost of electricity, it is likely to cause an equivalent increase in the retail electricity supply rates charged to Connecticut consumers. Therefore, it is CIEC's position that any HEDD strategy should be designed to impose the least possible cost on Connecticut electricity consumers, who already pay substantially more for electricity than the rest of the country. As such, DEP must provide due consideration for the emissions reduction benefits associated with energy efficiency programs prior to determining what, if any, additional reductions are necessary to achieve the agreed to HEDD emissions reduction target.[8]

Connecticut electricity consumers cannot afford to absorb additional electricity price increases resulting from the implementation of a HEDD strategy. The State's consumers already pay the highest electricity prices in the contiguous United States and the second highest prices in the entire country.[9] In fact, the State's electricity consumers paid between approximately 58 percent and 99 percent more than the U.S. average through October 2007.[10] Moreover, industrial customers in Connecticut paid in excess of 6 cents per kWh more than the national average through October 2007.[11] Unfortunately, this disparity has only grown since 2006, when Connecticut consumers paid between approximately 46 percent and 87 percent more for electricity than the U.S. average.[12] For industrial consumers, the gap grew over 12 percent in the last year alone, from approximately 87 percent more in 2006 to over 99 percent though October 2007.[13] These already-high energy costs are a significant factor in the decline in Connecticut's manufacturing sector. Significantly, in the last ten years, the manufacturing sector in Connecticut lost 16 percent of its employment – more than

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[8] Pursuant to the HEDD MOU, Connecticut agreed to reduce HEDD NO_x emissions by 11.7 tons per day. See, HEDD MOU at 3.

[9] 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.

[10] Id.

[11] Id.

[12] Id.

[13] Id.

37,600 jobs.[14] Consequently, to ensure that Connecticut does not lose more jobs to states or nations where the cost of doing business is lower, it is imperative that the price of electricity decrease, not increase.

DEP must fully consider the cumulative impact of all the various environmental programs it is looking to implement, including, but not limited to, the Regional Greenhouse Gas Initiative ("RGGI"). The additional rate increases resulting from implementation of a HEDD strategy together with DEP's other environmental initiatives will create new hardships for Connecticut electricity consumers and impact the decisions of businesses to locate or remain in Connecticut. Thus, DEP should fully consider low-cost or no-cost impact measures for achieving the necessary HEDD emissions reductions.

Specifically, DEP should fully analyze the emissions reduction benefits associated with energy efficiency initiatives. Notably, the HEDD MOU explicitly authorizes the use of energy efficiency programs to attain the necessary HEDD emissions reductions.[15] Moreover, the HEDD MOU specifically acknowledged that "energy efficiency is the most cost effective method to reduce HEDD NO_x emissions…."[16] Careful analysis may indicate that the benefits stemming from energy efficiency could provide Connecticut with the necessary HEDD emissions reductions without the need to implement a HEDD strategy resulting in additional electricity rate increases for Connecticut consumers.

Electricity consumers in Connecticut currently fund numerous energy efficiency programs. For example, Connecticut electricity consumers contributed approximately $71 million to the Connecticut Energy Efficiency Fund in 2006 to support energy efficiency and renewable energy.[17] In addition, many other energy efficiency initiatives exist, or are pending, as a result of separate state and federal programs. In fact, the Energy Conservation

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[14] Connecticut Labor Department, Labor Market Information, available at http://www1.ctdol.state.ct.us/lmi/.

[15] HEDD MOU at 3.

[16] Id. at 2.

[17] Energy Conservation Management Board, Energy Efficiency Investing in Connecticut's Future: Report of the Energy Conservation Management Board Year 2006 Programs and Operations (March 1, 2007), p. 26, available at http://www.cl-p.com/clpcommon/pdfs/companyinfo/publications/ECMB_Rpt.pdf.

Management Board has been recognized nationally for its electric energy efficiency programs.[18]

Moreover, the funding for energy efficiency programs in Connecticut is expected to increase dramatically upon implementation of RGGI. DEP's current proposed RGGI regulations provide an allocation of 69.375 percent of the proceeds derived from the sale of allowances for spending on energy efficiency programs.[19] Based on the modeling conducted to study the impacts of RGGI, ICF Consulting projected allowance prices ranging from approximately $2 to $5 per ton.[20] With an allowance price of only $5 per ton, RGGI would generate approximately $34 million of additional funding annually for energy efficiency programs.[21] Such funding would be in addition to the over $70 million already committed annually by electricity consumers to the Connecticut Energy Efficiency Fund.

However, based on the experience of other greenhouse gas cap-and-trade markets and analysts projections, the actual cost of RGGI allowances could exceed $20 per ton.[22] Based

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[18] Id. at 6.

[19] Regulations of Connecticut State Agencies § 22a-174-31(f)(4)(D)(iii), p. 31-24, available at http://www.ct.gov/dep/lib/dep/public_notice_attachments/draft_regulations/sec31draft122707.pdf (hereinafter, "Proposed Section 31").

[20] ICF Consulting, RGGI Package Case (updated 10/11/06), available at http://www.rggi.org/docs/packagescenario_10_11_06.xls.

[21] From 2009 through 2014, the proposed RGGI regulations provide for an annual sale of 9,732,483 allowances. See, Proposed Section 31 § 22a-174-31(f) at 31-21.

[22] In January 2005, the European Union ("EU") launched its Emissions Trading Scheme ("EU ETS"), the largest cap-and-trade program on CO_2 emissions in the world. Given the similarities between the EU ETS and RGGI, CIEC submits that the actual market experience of the EU ETS provides a realistic proxy of the allowance prices that can be expected in Connecticut. The average price for EU ETS allowances was $24.70 per ton in 2005 and $22.10 per ton in 2006. See, The World Bank, State and Trends of the Carbon Market 2007 (May 2007), p. 11, available at http://carbonfinance.org/docs/Carbon_Trends_2007-_FINAL_-_May_2.pdf. Moreover, a recent study found that it may be likely for allowances in RGGI to exceed $20 per ton during the first control period. See, New Carbon Finance, Regional Greenhouse Gas Allowances: Going, Going, Gone? (North America Research Note – November 2007), p. 8, available at http://www.newcarbonfinance.com.

upon an allowance price of $20 per ton, RGGI would generate approximately $135 million of additional annual funding for energy efficiency programs, or in excess of $200 million annually when combined with funding from the Connecticut Energy Efficiency Fund. Such a wealth of funding, nearly three times the level currently provided by Connecticut consumers, would be expected to generate substantially greater benefits from energy efficiency than those currently realized. Accordingly, the emissions reduction potential attributable to energy efficiency, especially after implementation of RGGI, could be extremely significant, if not capable of providing the full emissions reductions necessary to comply with the HEDD MOU. Therefore, DEP should fully account for such emissions reductions prior to determining what, if any, additional reductions are necessary to achieve the necessary HEDD emissions reduction target.

Before enacting any HEDD strategy that will create further upward pressure on electricity prices, DEP should take all necessary steps to fully evaluate and quantify an accurate value for the emissions reduction benefits attributable to the energy efficiency programs. Furthermore, given the substantial uncertainty regarding RGGI allowance prices (and thus the additional funding that RGGI will provide for increased energy efficiency), CIEC recommends that DEP delay implementation of any HEDD strategy until 2012. Such delay will provide DEP with critical information relating to the additional benefits provided by RGGI during the first control period (i.e. 2009 through 2011) with respect to energy efficiency, leading to more accurate accounting for the emissions reductions relating thereto, while remaining in compliance with the HEDD MOU.[23]

For all the foregoing reasons, CIEC respectfully requests that DEP ensure that any HEDD strategy be designed so as to impose the least possible impact on the cost of electricity to Connecticut consumers. Accordingly, DEP should: (i) exempt from the scope of any HEDD strategy all Customer-Side Distributed Resources, as defined in Section 16-1(a)(40) of the Connecticut General Statutes; and (ii) fully and accurately quantify the emissions reduction benefits attributable to energy efficiency.

[23] The HEDD MOU requires Connecticut implement a HEDD strategy by 2012. See, HEDD MOU at 2.

If you have any questions regarding these comments, please feel free to contact me directly at 518-320-3437. Thank you in advance for your time and thorough consideration of this matter.

Very truly yours,

COUCH WHITE, LLP

Garrett E. Bissell

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