The Energy and Technology Committee

February 22, 2007

<u>Senate Bill No. 1206: AAC NATURAL GAS CUSTOMER CHOICE</u>

Testimony of

The Office of Consumer Counsel

Mary J. Healey, Consumer Counsel

The Office of Consumer Counsel (OCC) has carefully reviewed and DOES NOT SUPPORT **<u>Senate Bill 1206: AAC NATURAL GAS CUSTOMER CHOICE</u>.** OCC has been supportive of the development of supplier choice for commercial and industrial natural gas customers in Connecticut in accordance with the appropriate regulatory standards. This effort has been successful, as alternative suppliers have a substantial portion of the commercial and industrial customer load. However, creating a program that would give residential customers a choice among natural gas suppliers, as this bill seeks to do, creates additional, critical policy concerns. Also, some of the specific provisions of the bill would jeopardize the reliability of the natural gas system that serves all gas customers.

Although "competition" and "promotion of choice" are generally worthy goals, it should not be assumed that this bill which seeks to promote choice of suppliers, including for residential customers, would lead to benefits for ratepayers as a whole.

The Department of Public Utility Control (DPUC) has been examining the issues around unbundling of the natural gas industry for over a decade. Presently, the traditional gas utility companies, also known as local distribution companies ("LDCs"), being Yankee Gas, Connecticut Natural Gas, and Southern Connecticut Gas, continue to ensure the reliability of the natural gas system by making interstate and international agreements with pipelines and storage facilities. Importantly, in a May 2006 ruling, the DPUC ruled that such reliability responsibility, known as the supplier of last resort or "SOLR" function, should continue to be served by the LDCs.

To promote competition while continuing to keep the SOLR reliability function with the LDCs, the DPUC authorized a pipeline capacity release program that would allow only a very limited release of the LDC's contracted pipeline capacity to marketers. Under the DPUC's May 2006 ruling, the LDCs would release capacity representing only about 12.5% of retail supply load. The DPUC refused to allow greater capacity release due to reliability concerns, which include a retail supplier's bankruptcy. If pipeline capacity is released to a retail supplier and that supplier goes bankrupt, it is unclear whether the capacity would be tied up in the bankruptcy court and it is also unclear how quickly the LDC could reclaim the capacity so that it is not diverted to serve out-of-state customers.

Notwithstanding this recent DPUC ruling authorizing, based on reliability concerns, only a very small amount of capacity release, Section 3 of Senate Bill 1206 would provide to retail suppliers *all* natural gas pipeline and storage capacity. DPUC, the administrative agency with expertise as to how much capacity release is warranted, and based on balancing the goals of promoting competition and assuring reliability, decided that only a very limited capacity release program was manageable at the present time. Nothing has happened since the DPUC's May 2006 ruling that would justify the reliability risks of the total capacity release proposal in this bill. Section 4 of the bill seeks to mitigate the risks of total capacity release but will have no effect on the federal bankruptcy law risks involved with capacity release.

In addition, this bill seeks, in Section 2, to extend choice to residential natural gas customers. This proposal ignores the physical realities of the natural gas system. This would jeopardize the ability of the LDC to do long-term planning on behalf of residential customers because of reliability risks.

Other concerns of creating a residential retail choice program for natural gas, based on experience in other states, include the following:

- Residential natural gas consumer choice programs have led to issues with slamming (unauthorized change of a customer's supplier by a marketer) by unscrupulous marketers;
- Problems with rapid exit from the State's market by marketers, including as a result of bankruptcy. Bankruptcy risks can jeopardize reliability and frustrate consumer expectation;
- Problems with a marketer making a long-term offer in Year 1 that the marketer is not willing to stand by in subsequent years. Because the marketer is not tied to Connecticut in the same way as the LDCs are, it can seek to evade contracts with residential ratepayers if they do not turn out well for the marketer, and unfortunately the contractual ability of the resident to enforce the terms of a long-term contract are usually quite limited;
- Residential natural gas consumers do not typically have the expertise to know whether a long-term deal being offered by a marketer makes financial sense, is binding on both parties, etc.

LDC ratepayers also stand to lose significant money under this bill because they presently receive a substantial portion of the benefits (in excess of 85%)

when an LDC uses excess capacity. At times when Connecticut does not need all of its pipeline capacity, the present system allows the LDCs to make sales using that capacity. The LDCs, per DPUC rulings, keep only a small portion of these gains to encourage such sales (about 15%) while ratepayers get a whopping 85% of these gains. If capacity is released to retail suppliers, the retail suppliers will siphon off most of those benefits and, perhaps, return a much smaller amount to ratepayers. Indeed, this bill would allow retail suppliers to siphon off the benefits of the system *that ratepayers paid for.*

Finally, Section 5 of the bill would mandate full utility purchase of a retail suppliers receivables. This would mean that the risks of retail supplier's business would be shifted in full to the customers of the LDCs. In other words, ratepayers would be subsidizing retail suppliers so that they can conduct a risk-free business using the infrastructure that was paid for the ratepayers. In short, Section 5, like most of Senate Bill 1206 reflects anti-consumer choices.

Residential customers are not looking for a choice in natural gas suppliers; they are looking for prices that are as low as possible. The current system provides for the lowest rates possible by allowing the LDCs to make long-term planning arrangements without the fear of capacity risks. Moreover, the present system gives the ratepayers most of the benefits when the LDCs use excess pipeline capacity. There is no reason to expect that handing retail suppliers some of these benefits will create lower rates. A lack of residential retail choice has little or no relationship to the amounts shown on residential natural gas bills in Connecticut. A retail marketer, like a natural gas utility, would need to arrange for gas from distant domestic and foreign sources.

Thus, OCC respectfully suggests that, at most, the possibility of creating a residential choice program in natural gas should be studied in a docket at the Department of Public Utility Control (DPUC). This would allow evidence of all of the risks and benefits of allowing residential consumer choice to be weighed appropriately. Since this bill would not appear to allow for such a study but instead mandates adoption of a residential retail choice, OCC cannot support this bill.