State of Connecticut

Office of Consumer Counsel

Mary J. Healey
Consumer Counsel

The Energy and Technology Committee
March 15, 2011

<u>Raised Bill No. 1176, AAC Connecticut's Energy Future</u>
Testimony of Mary J. Healey, Consumer Counsel

The Office of Consumer Counsel (OCC) has carefully reviewed Raised Bill No. 1176, *An Act Concerning Electric Rate Relief,* and supports the bill.

Section 1 of the Bill would create a tax on coal, oil, and nuclear power plants operating in Connecticut. Proceeds of the tax would go for the budget, for rate relief, and to provide resources for clean energy. As shown in the attached chart, the tax would bring in about $340 million per year annually, based on last year's output figures. It is OCC's understanding that the tax has been carefully calibrated so as to avoid "pass-through" of the tax by generators. OCC is confident that the tax, as structured, will not be passed-through in any material way as to coal and oil, and will not be passed-through at all as to nuclear.

Nearly the entire tax ($332 million of $340 million) is imposed on nuclear generation. As discussed at a prior hearing, this tax cannot be successfully passed through to ratepayers by Dominion. The difference between the ISO New England market clearing price and Millstone's estimated costs of operation easily exceeds 2 cents per kilowatt hour (the amount of the proposed tax) in substantially all of the hours of the year. Moreover, because of the enormous size of a nuclear power plant, such plants are not able to ramp up and down rapidly (due to technical constraints) or frequently (due to safety-related regulatory constraints). For this reason, the Millstone units bid into the ISO energy markets at zero cost, essentially forcing the ISO to take Millstone energy before any other sources. Because of the aforesaid technical and safety constraints and because the economics of running Millstone all of the time will continue to be favorable (leading to substantial annual energy market profits for Millstone despite the tax), Millstone will continue its present bidding strategy. We do not expect Millstone to operate less often because of the tax. Millstone will simply earn less profit in doing so and absorb the tax.

As an aside, note that Millstone receives about $70 million a year from the ISO New England Forward Capacity Market ("FCM") in addition to the profits it receives from the ISO energy market, and the tax does not touch that $70 million. Moreover, Millstone would risk losing some of that very substantial capacity payment if it even tried to turn off and on in response to energy price signals. As a second aside, OCC notes that ISO New England, apparently unsatisfied with the extraordinary cost to ratepayers of the existing FCM, is trying strenuously at FERC to double or perhaps triple the clearing prices in the Forward Capacity Market.

The fact that Millstone may sell some or all of its output in contracts rather than accepting the payments directly from the ISO New England energy market is of no consequence. As OCC knows from its own activity in power purchasing, the costs of power contracts are benchmarked to the expected clearing price in the ISO New England market. If Millstone and its counterparty expect that the average clearing price during Millstone's operations will be \$55 per megawatt-hour, then their contract will be at \$55 per megawatt-hour, regardless of whether Millstone's costs are \$10 per megawatt-hour or \$40 per megawatt-hour. If Millstone tried to increase its offer to the counterparty by, say, \$10 per megawatt-hour because of a tax, the counterparty would simply reject the offer and buy in the spot market or from another generator. This issue as to the "contracts versus the market" is a red herring. The contracts reflect the market.

The taxes on coal and oil generators are much smaller in terms of the amount per megawatt-hour, and the coal tax has been limited to peak power usage months. The oil tax is so minimal (\$200,000 over the course of a year) that we do not anticipate that it will affect energy market price bids. As to the coal tax, the months in which it is applicable have greater power usage, meaning that more units (including some higher-priced units) tend to be bidding and clearing. Such units include peaking and intermediate units that burn natural gas. Assuming that natural gas pricing continues its recovery from its 2010 lows, as would be reasonable, little of the coal tax should be passed through.

Section 2 of the bill, and the sections that follow, appear to be targeted to get rid of the "tax" on the ratepayers through the competitive transition assessment ("CTA") charge. OCC applauds this effort and would also support restoration of the Conservation and Load Management Fund money. In our view, there are certainly better ways to balance the budget than the CTA charge.

Monthly Output (MWH)

	Jan-10	Feb-10	June-10	July-10	Aug-10	Output Subject to Tax
Coal	358,982	225,224	270,034	331,516	326,735	1,512,491
Proposed Tax						0.5 cents per kwh
Total Coal Tax						$ 7,562,455

Output (MWH)

	Actual Generation YTD 11/30/10	Estimated 12/2010 Output	Estimated 12/2010 Output
Nuclear	15,222,000	1,383,818	16,605,818
Proposed Tax			2.0 cents per kwh
Total Nuclear Tax			$ 332,116,364

Output (MWH)

	Actual Generation YTD 11/30/10	Estimated 12/2010 Output	Estimated 12/2010 Output
Oil	378,000	34,364	412,364
Proposed Tax			0.05 cents per kwh
Total Oil Tax			$ 206,182

Total Output Tax **$ 339,885,000**

Generation Data Source:
EIA Website, Electric Power Monthly, Report Released March 11, 2011