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**TESTIMONY**

**OF**

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**ON BEHALF OF**

**NEW ENGLAND POWER GENERATORS ASSOCIATION (NEPGA)**

**2015 – Senate Bill 1050**

**JOINT COMMITTEE ON ENERGY AND TECHNOLOGY**

**March 17, 2015**

Good afternoon and thank you for the opportunity to testify. My name is Dan Dolan and I am the President of the New England Power Generators Association, Inc. (“NEPGA”).<sup>1</sup> NEPGA is the trade association representing competitive electric generating companies in New England. NEPGA’s member companies own approximately 25,000 megawatts (MW) of generating capacity throughout New England, and over 6,900 MW of generation in Connecticut, or nearly 80 percent of the electric generating capacity in the state. Our mission is to promote sound energy policies which will further economic development, jobs and balanced environmental policy.

NEPGA’s six Connecticut companies provide power for the state from a diverse portfolio of plants, including natural gas, coal, oil, hydro, and nuclear. Overall, the companies pay over \$90 million annually in state and local taxes, while providing over 1,700 well-paying and skilled Connecticut jobs. Our companies are good corporate neighbors, contributing to the civic and charitable endeavors of their host communities, donating over one million dollars annually to charitable endeavors throughout the state.

## **I. NEPGA’s Position**

NEPGA has serious concerns with SB 1050. Power plants are often the largest taxpayer and employer in their communities. They occupy an important part of their host communities with the potential retirement or new development of a plant having numerous implications. Power plants also represent some of the last large manufacturing facilities in Connecticut with well-paying jobs coming from investments made by owners in response to economic signals, much as any other manufacturing is developed. Some of the provisions in SB 1050 unnecessarily limit options for the best use of a facility and create an unfavorable business environment for manufacturers. This bill also singles out electricity production placing unnecessary and arbitrary requirements on certain manufacturers of electricity that go beyond what other manufacturers are subject to in Connecticut. This would also represent the only such restrictions on land use for electricity facilities in any state that NEPGA could find.

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<sup>1</sup> The views in this testimony reflect those of NEPGA and not necessarily the position of each individual member.

State and federal decommissioning and environmental requirements are in place to guide the process when a plant owner decides to close a facility including assuring appropriate environmental remediation. A more prudent area of focus would be on the development of more formal communication protocols between manufacturers and host communities to guide retirement announcements. To the extent redevelopment and reuse are goals, improvements to siting processes and community-developed studies offer the best inducements for the necessary investments.

## **II. Adequate State and Federal Environmental Requirements Exist**

Due to the unique nature of the fuel used for generation, all nuclear generating plants have decommissioning requirements as part of their Nuclear Regulatory Commission (NRC) licensing process. For non-nuclear plants, any retirement or decommissioning approach taken by an owner is subject to the state and federal environmental requirements that all manufacturing facilities would be subject to, including in general:

- Closure of underground storage tanks, including dismantling and disposing of the tank in certain conditions;
- Closure of underground storage tanks pursuant to both state and federal regulations;
- Closure of landfill cells and ash cells, including post-closure maintenance, groundwater monitoring and financial assurance;
- Modification of stormwater pollution prevention plans;
- Obtaining new stormwater construction general permits, if activities disturb over an acre of land or result in abnormal discharges of waste water;
- As applicable, removal and disposal of asbestos containing materials pursuant to both state and federal regulations, in certain conditions;
- As applicable, removal and disposal of PCB articles pursuant to federal regulations;
- Removal of structures not in compliance with licenses allowing construction in waterways;
- Orders by fire departments or fire marshal to maintain a fire watch patrol or demolish dangerous structures, in certain conditions;
- Ongoing monitoring, reporting and recordkeeping requirements for operating permits, unless such permits are otherwise terminated; and

- Future liability for releases of oil or hazardous material that occurred during ownership or operation of plant.

In addition to these requirements, existing plants in Connecticut are required to file an annual report with the Connecticut Siting Council of their forecast load and resources pursuant to Section 16-50r (a) of Connecticut statutes. Bill sponsors may consider amending this statute to allow power plant owners to report if they plan to retire or cease operations for that year.

### **III. SB 1050 Discourages Necessary Investment in Connecticut**

SB 1050 requires owners of private property, most notably potential developers of an electric generating facility to submit a decommissioning plan with the projected useful life of the facility, identification of circumstances that “may trigger” decommissioning of the facility in advance of its useful life, a description of the method that the site would be restored to its original condition and financial assurance that sufficient funds are available for decommissioning. These types of licensing requirements on non-nuclear generating resources are not only far beyond any industry best practice, but would position the state as an extreme outlier nationally. Currently Connecticut is experiencing the first major power plant build cycle in over a decade with two new generating plants in Connecticut receiving capacity commitments in the ISO New England’s recently completed Forward Capacity Auction for obligations beginning in 2018. In addition more generating plants have been proposed for the state. This build cycle meets the need that was identified in the Department of Energy and Environmental Protection’s (DEEP) recently released draft Integrated Resource Plan (IRP) for new resources in the region by 2018 to support electric reliability and competitive pricing for consumers. These developments also represent over a billion dollars of new investment in Connecticut with hundreds of construction jobs over several years and millions in additional state and municipal taxes. Placing onerous conditions on developers in Connecticut that are not found in neighboring New England states would likely drive these types of jobs and investments out of Connecticut.

These types of provisions not only threaten direct investment in Connecticut by electric generation developers but also call into question the overall business climate of the state. Requiring developers of manufacturing businesses to submit onerous decommissioning plans such as envisioned by this legislation, raises the specter of “whose next?.” What is the next manufacturing industry that may receive these unique and onerous restrictions on their private property? This type of anti-business message will not only discourage investment by electric generators but also sends a message to other manufacturers looking to invest in Connecticut.

Setting obligations for the manufacturing industry in the state – or a subset of this manufacturing industry – that far exceed that of any other state puts Connecticut at a significant competitive disadvantage. As the state’s recent experience with its temporary tax on electric generation output illustrated, being the only state to impose an onerous requirement on a specific subset of the manufacturing industry – the electric generation industry – put jobs, property tax revenues and general economic benefits at risk for all existing and potential electric generation facilities. Licensing obligations should not discriminate against one type of manufacturer. In the current economic climate with all the New England states competing with each other and neighboring regions for economic development and the associated jobs, tax revenue and benefits, policy-makers should be mindful of the message that unfairly discriminating against any manufacturer sends to all existing and potential manufacturers – in the energy industry and beyond.

#### **IV. A Focus on Collaboration and Communication**

As the New England energy industry transitions, NEPGA appreciates the desire of policy makers to ensure that an orderly process is in place for existing generating facilities that may be retired over the coming years. Instead of requiring owners of certain generation to submit a definitive plan for their facilities immediately upon retirement, NEPGA believes it is better to maintain flexibility for the private owners to determine the best use of a site. Encouraging owners to closely communicate with their

host community immediately prior to an announcement of retirement, after an announcement and during the transition period would be a better policy focus.

Options for ensuring this continued good relationship, collaboration and communication might include:

- Prior to any decision to retire, existing generation facility owners would develop and share with the host communities a communication protocol for announcement of a plant closure. This protocol that would ensure that local governing bodies such as Mayors, City Managers, City Council and other local entities, and other elected officials such as elected state legislative officials are notified of a pending closure announcement immediately prior to a public announcement. The protocol would also outline how an announcement would be communicated and would give assurance of the facility owner's continued willingness to work collaboratively to maintain clear communication with host communities.
- Immediately after an announcement is made, hold a public meeting and prepare a public schedule for periodic updates on transition efforts.
- After announcing a pending closure, work with the host community to support a study of alternatives and options for redevelopment of the site. Such a study would not recommend or bind a future owner to a sole solution, rather it would evaluate the unique characteristics of the site, the preferences of the host community and comprehensively evaluate potential options for the redevelopment of the site.

The Connecticut Siting Council could serve as the organizing entity for these protocols. Maintaining flexibility for private generation owners to determine the best use of their site going forward – in the same way all other manufacturers do – while suggesting a process for ensuring communication and collaboration with host communities is a better policy path than arbitrarily requiring developers to file plans to close their facilities before they even open them or requiring existing plant owners to immediately decide the best use of their retiring site before they have the ability to assess available options.

## **V. The Massachusetts Experience**

In considering how to help manage through implications of plant closures of local communities, an example may be found in the recent experience of Massachusetts. There, a one-time allocation was made by the state for studies conducted by communities to examine the potential land uses, redevelopment options and remediation options for the sites.<sup>2</sup> Massachusetts also subsequently formed a Task Force, of which I was an active member, to specifically examine the decommissioning of the remaining coal plants in the state.<sup>3</sup> In the Massachusetts Task Force's final report, the group noted that the community studies, "will be tailored to the needs of the community, include robust public input and engagement, and serve as a crucial component to determine the vision for redevelopment of each respective site."<sup>4</sup> Noting that the community studies should take into account local needs in identifying best uses for a site, the Task Force also noted that "it is also important to note that any final decisions on the future use of retiring coal facilities should be the result of collaborative efforts between the current or future property owners, the host communities, and other interested stakeholders."

NEPGA offers this example as a potential model for Connecticut to consider in addressing critical community and facility issues in a collaborative, open fashion without imposing potentially onerous provisions with negative implications for local investment and plant developers.

## **VI. Conclusion**

NEPGA appreciates the desire of policy-makers to ensure that at the time an electric generating facility may decide to cease operation that there is an orderly transition process. However, adding a requirement for a decommissioning plan and financial

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- <sup>2</sup> <http://www.mass.gov/anf/docs/anf/fy14/fy2014-budget-attachment-f-rggi-201307121330.pdf>
  - <sup>3</sup> The Salem Harbor Power Station – Plant Revitalization Task Force, <http://www.mass.gov/eea/energy-utilities-clean-tech/salem-harbor/>
  - <sup>4</sup> <http://www.mass.gov/eea/energy-utilities-clean-tech/salem-harbor/decom-subcommittee-final-report.pdf>

assurance as part of siting approval is an onerous requirement that would be unique to Connecticut and place the state at an economic disadvantage for attracting any new investment. Likewise requiring an existing retiring site to either sell, transfer or repower or submit a detailed decommissioning plan for approval is not the industry norm, is not necessary due to existing federal and state guidelines for all manufacturing facilities and limits the needed flexibility of a potential new owner to determine the best use of a site. For these reasons, NEPGA urges the Committee not to pass SB 1050 in its current form. A better policy approach to ensure an open and transparent transition process for any retiring electric generation facility – or any manufacturing facility – is to ensure that facilities and host communities have protocols in place for making retirement announcements and informing host community’s citizens of the transition efforts as the progress. New inducements and improvements to siting facilities to reuse and redevelop existing sites, as is being used by a number of proposed power plant projects today, should also be considered.

Thank you for this opportunity to testify before you. I would be happy to answer any questions from the Committee.