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April 19, 2013

Debra Morrell  
Bureau of Energy and Technology Policy  
Department of Energy and Environmental Protection  
Ten Franklin Square  
New Britain, CT 06051

Dear Ms. Morrell:

The New England Power Generators Association, Inc. (NEPGA) appreciates the opportunity to submit these comments in reply to the March 19, 2013 Notice of Request for Written Comments regarding the Department of Energy and Environmental Protection (DEEP) draft study, *Restructuring Connecticut's Renewable Portfolio Standard* ("RPS Study").<sup>1</sup>

### **Introduction**

NEPGA is the trade association representing competitive electric generating companies in New England. NEPGA's member companies represent approximately 26,000 megawatts (MW) – or nearly 80 percent – of generating capacity throughout New England, and over 7,300 MW of generation in Connecticut, representing the vast majority of the state's electric generating capacity. Overall, NEPGA's Connecticut companies pay approximately \$110 million annually in state income and local taxes, including the state tax on electricity production. NEPGA member companies provide more than 1,500 well-paying and skilled Connecticut manufacturing jobs, while annually contributing over two million dollars to charitable endeavors throughout the state. NEPGA's mission is to promote sound energy policies which will further economic development, jobs and balanced environmental policy.

### **NEPGA's General Perspective on the Draft RPS Study**

NEPGA has significant concerns with two of the proposed recommendations in the draft RPS study:

- Allowing large-scale, government-owned hydropower to qualify as a Class I RPS resource through a new RPS Contracted Class I Tier; and

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<sup>1</sup> The comments expressed herein represent those of NEPGA as an organization, but not necessarily the position of any particular member.

- Providing a mechanism for the state to conduct a procurement of “contracted tier” large-scale, government-owned hydropower resources.

NEPGA believes these two recommendations are motivated by a desire to grant a contract to Hydro Quebec (HQ). This is extremely problematic as the state would effectively be discriminating against in-state industrial employers such as NEPGA’s members who have invested billions of dollars in Connecticut by excluding them from an opportunity to bid on a competitive Request for Proposals (RFP) while forcing them through a generator tax to pay higher taxes than the companies benefitting from a sole-source contract.

To more fully explain our concerns, the remainder of NEPGA’s comments will focus on:

- Concerns with the proposed RPS Contracted Class I Tier;
- The role of Purchase Power Agreements (PPAs) in the competitive electric markets;
- The uncertain prospects for the Northern Pass Transmission (NPT) project; and
- The erroneous assumption that eligible hydro resources would be “low-cost.”

### **Concerns with the Proposed RPS Contracted Class I Tier**

NEPGA has significant concerns with the creation of a RPS Contracted Class I Tier and opposes this policy direction. As NEPGA noted in its December 2012 comments regarding DEEP’s draft Comprehensive Energy Strategy (CES), the Connecticut RPS has been in existence for many years, thus there is some merit in conducting a review of the RPS to gauge its success in meeting its policy goals. However, we cautioned against making widespread changes that minimize the regulatory certainty necessary for the RPS to be successful. We further noted significant concerns regarding a change in the definition of an eligible resource in a manner that undermines the very purpose of a RPS. The new Class I contracted tier does just that. Our specific concerns include:

- ***Large-Scale, Government-Owned Hydro Should Not Qualify for Connecticut’s RPS.*** The primary goal of an RPS is to provide a consumer subsidy to support emerging renewable energy sources that may not be economical when compared directly with current commercial technologies and which may not be developed without that support. Large-scale, state-owned hydro resources, however, already are subsidized by rate-payers in Canada. It does not require an additional RPS-type subsidy or an above-market contract to be paid by Connecticut consumers that will be used to hold down power prices in Canada, while making it harder for Connecticut’s economy to compete. Canadian hydro resources are certainly capable of competing in the Connecticut market without a RPS-type subsidy and their development is not dependent upon Connecticut providing a contract or other subsidy. Regardless, these facilities will be built. These resources already compete over existing transmission lines into the region; it is not clear why they now need a subsidy. In fact in other venues, HQ has noted it does not seek to get into the New

England RPS program, but rather to “co-exist” with the RPS.<sup>2</sup>

- **Canadian Hydro Does Not Necessarily Meet RPS Environmental Goals.** Including imports of large-scale government-owned hydro resources into the RPS does not necessarily meet the environmental goals of the RPS. This is particularly true for large-scale imports of hydro power from Hydro-Quebec (HQ), which are typically provided to New England today as “system power” resources. This means that they are not unit specific and not automatically tracked to any specific generation facility from which the power originated. Given the large storage capacity and strong interties of the HQ system with other, higher-emitting jurisdictions, it is highly probable that a substantial portion of energy will have actually originated from fossil-fuel generating facilities from such neighboring jurisdictions. The “system power” form of sale would not support accurate accounting to assure the same hydro megawatt-hours are not sold to more than one party, a critical element of the Generator Information System (GIS) administration of New England REC markets. This would clearly undermine the environmental objectives of the RPS.
- **Large-Scale, State-Owned Hydro Does Not Meet RPS Policy Goals.** It is difficult to see how the inclusion of these hydro resources in the Connecticut RPS will affect the development or operation of hydro facilities which will be built based on the value of their energy and capacity (and portfolio requirements of their province), not a subsidy from Connecticut consumers. In contrast, most local renewable resources depend, to a very real degree, on REC revenues for both development and continued operation. Since many of these resources are distributed technologies they also tend to be developed within the State of Connecticut, paying local taxes and supporting local employment. Eligibility for consumer subsidies through RECs should not be extended to energy sources that do not satisfy environmental and policy criteria, or that do not face the economic challenges of other renewable technologies, such as large-scale provincially-owned hydro.
- **A Successful RPS Needs Regulatory Certainty.** A successful RPS needs to provide a degree of regulatory certainty that rules and definitions for all fuel types whether they be hydro, biomass, solar, wind or fuel cells are not subject to sudden or continual change. This allows contractual arrangements to be made in the market to meet the RPS requirements. Enticing firms to make investments and create jobs in Connecticut with a RPS program simply will not work if the program is modified in ways that undermine the reasonable expectations of investors. Policy consistency and certainty is critical for long-term investments in any industry and especially true in one as regulated as electricity.

## **The Role of Power Purchase Agreements in a Competitive Electric Market**

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<sup>2</sup> HQUS Presentation before the Maine Legislature’s Joint Committee on Energy, Utilities and Technology, January 22, 2013.

NEPGA also has significant concerns with the recommendation to give authority to the DEEP Commissioner to solicit proposals for RPS Contracted Class I resources. As DEEP explains in its draft report, there would be two procurements – Connecticut’s participation in the regional procurement for Class I resources and then a second procurement for large-scale hydropower resources greater than 30 MW. It is the second recommended procurement that particularly concerns NEPGA. There is no requirement for an analysis of the need for these resources before soliciting proposals nor assurances that either imports over existing infrastructure or internal New England resources would be able to fairly compete. The definition of what would be targeted in the procurement is very narrow, essentially picking winners and losers. Legislation to implement this recommendation – which unfortunately has already been introduced before this study is even completed – has no requirement for utilizing a competitive solicitation process to procure needed generation resources, unlike all prior legislation providing long-term contracting opportunities. Some examples of these types of competitive procurements are noted below. The electric distribution companies (EDCs), one of which is an affiliate of the entity that will be greatly benefitted from the building of the transmission line over which this HQ energy would flow, would be granted the ability to sign a 20-year single-source, no-bid contract with HQ. This contract would be paid for by all Connecticut consumers, regardless of whether it is economic or not. This puts the risk of these contracts squarely on the back of consumers again, with no direction given as to how the power procured through these contracts would be used.

NEPGA believes that state-sponsored PPAs are not the best way to promote resource development at the lowest cost and risk for consumers. Rather, properly designed electricity markets should provide sufficient incentives for the financing and development of all generation resources, including renewables. To the extent that these markets are not working accordingly – and NEPGA agrees that significant improvements to these markets would be beneficial – work should be pursued through the Independent System Operator New England (ISO-NE), the New England Power Pool (NEPOOL) and the Federal Energy Regulatory Commission (FERC) to affect necessary market improvements.

If, after exhausting efforts to achieve market improvements, DEEP determines that these markets are not working as designed, and makes a policy decision that additional generation is necessary for system reliability or to mitigate the cost of renewable energy, it would then be imperative that PPA recipients are selected through a competitive procurement process open to all resources, new and existing. Any procurement of generation resources should be done through an open, transparent and competitive process, consistent with prior legislative acts.

In July 2005, the Connecticut General Assembly passed Public Act 05-01, the Energy Independence Act, which contained a number of incentives for reducing congestion costs, and for expanding the development of customer-owned generation and increasing energy efficiency. In particular, the legislation provided for a Request for Proposals (RFP) process for new generation and demand reduction resources. In July

2007, the General Assembly passed Public Act 07-242 which included a package of provisions to encourage energy efficiency and conservation, incentives for renewable energy, and incentives for other generation resources. Both pieces of legislation relied upon a competitive RFP process administered by regulators and open to all market participants. This competitive RFP structure initiated substantial development of generation under a procurement process that assured only the most competitive bids were selected. In response to the 2006 RFP, over 80 projects totaling 8,000 MW were submitted. The 2007 peaking RFP led to the submittal of 11 proposals totaling 1,800 MW. Both generation procurements were done through an open, fair and transparent competitive bidding process. This approach expanded the consideration of generation development to a wide range of companies, allowing a competitive process to deliver the desired generation, at the lowest costs to ratepayers.

During 2011, the Legislature passed Public Act 11-80 which opened the door for utilities to own up to 10 MW of renewable generation and required that the vast majority of renewables once again be competitively procured. In an RFP issued in December 2011 – with only one week of notice – 21 proposals were submitted and two projects were selected to provide 10 MW of solar generation. Even under a rushed timeline robust competition was evidenced in the RFP process. As noted by Governor Malloy commenting on the RFP’s results, “This selection process validates our new approach to energy policy in Connecticut... The fact that 21 projects – representing 70 MW of clean renewable power – applied under this program is a clear sign that entrepreneurs and clean technology innovators are excited about the new approach Connecticut has taken.”<sup>3</sup>

Connecticut’s experience with competitive procurement should be contrasted with Massachusetts’ experience of not using competitive procurement. Western Massachusetts Electric Company (an NU company) is in the process of building two utility-scale solar facilities with financing on a regulated monopoly basis. These projects are both slated to cost over \$5,220 per kilowatt.<sup>4</sup> While every development is different and component costs for solar projects have continued to fall, these two projects are each nearly three times as expensive as the per kilowatt cost of the comparably-sized facilities that were the result of the 2011 Connecticut RFP.<sup>5</sup> No market test was put to work for the Massachusetts projects taking away the opportunity for consumers to judge whether cheaper or more efficient options were available. This example illustrates the dangers of pushing through rate-based investments in which all the risks and costs are borne by consumers, in sharp contrast to the efficiencies, innovation and reduction in consumer costs that result from robust competition.

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<sup>3</sup> Department of Energy and Environmental Protection Press Release, “Governor Malloy Announces Procurement of Cheaper and Cleaner Energy For Connecticut” December 23, 2011

<sup>4</sup> See [http://www.huffingtonpost.com/2010/11/15/largest-solar-power-plant\\_n\\_783502.html#s182357&title=Solar\\_Energy\\_Plant](http://www.huffingtonpost.com/2010/11/15/largest-solar-power-plant_n_783502.html#s182357&title=Solar_Energy_Plant) and [http://www.masslive.com/news/index.ssf/2011/01/western\\_massachusetts\\_electric\\_3.html](http://www.masslive.com/news/index.ssf/2011/01/western_massachusetts_electric_3.html)

<sup>5</sup> A conservative calculation for the Massachusetts projects of a 20% carrying charge rate and 20% capacity factor results in nearly 60 cents/kWh. This is contrasted with the 22.2 cents/kWh announced for the 2011 Connecticut RFP results.

## **The Uncertain Prospects for the Northern Pass Transmission Project**

Underlying much of the proposed policy in the RPS study is the belief that certain infrastructure projects, such as the troubled Northern Pass Transmission (NPT) project, will be built on time, if at all. In determining whether to include out-of-region, large-scale hydro as part of Connecticut's RPS it is vital to weigh the likelihood of this infrastructure being built to deliver the power to New England. The challenges that have confronted, and continue to plague, the troubled NPT project in New Hampshire provide an example of this uncertainty. In October 2010, NU and HQ announced a proposed 180-mile route for the NPT, including 40 miles of new right-of-ways through northern New Hampshire and 10 miles through the White Mountain National Forest (WMNF), as well as announcing an alternative route. The proposal was immediately met with opposition, with 29 towns unanimously passing resolutions in March 2011 that they did not want the project to come through their towns.

Since that time four more towns have passed resolutions opposing NPT, most recently the town of Deerfield which is expected to be a prime financial beneficiary of NPT. Several bills have been introduced this session in the New Hampshire Legislature seeking a moratorium on applications for elective transmission siting until enhancements are made to the state Site Evaluation Committee (SEC) process. Legislation has passed the New Hampshire Senate, and is pending in the New Hampshire House, to form both an outside commission and a legislative commission to examine the state's SEC process and make recommendations on how to streamline and update the process. This evaluation would be completed in late 2013 in order for the Legislature to take any necessary action during the 2014 legislative session. Given the strong likelihood of this legislation passing this year – and the timeline for the recommended evaluations – it is highly unlikely that the SEC would begin to consider the NPT project before the end of 2014 at the earliest.

In early 2011, NU and HQ announced they would develop a new proposed path for the NPT project, due out in June 2011. During the 2011 New Hampshire legislative session, a bill to prohibit NU and HQ from using eminent domain to acquire land to build the proposed line from Canada was introduced. The Legislature overwhelmingly passed it and Governor John Lynch signed the bill into law in March 2012. The proposed route announcement has been delayed numerous times and is still outstanding with the parties just missing a March 2013 deadline – their fourth self-imposed deadline – for a new route announcement. Increasing skepticism over the project's future is being expressed by the investment community, with Bloomberg analyst Andrew Weisel noting after NU's 3Q 2012 investment call that the "outlook for the company's transmission unit...is 'increasingly uncertain' given the problems and pushback in New Hampshire." Weisel predicted an in-service date at best in late 2017.<sup>6</sup>

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<sup>6</sup> "Wall Street Skeptical About Northern Pass," *Concord Monitor*, November 1, 2012.

If and when the new route is secured, there are three main regulatory hurdles the project must pass. First, it must secure a Presidential Permit through a Department of Energy (DOE) process to allow it to cross the Canadian border into the United States. Second, it must obtain approval from the New Hampshire Site Evaluation Committee (SEC). Finally it must secure a Special Use Permit to allow it to cross over the White Mountain National Forest (WMNF). The last Special Use Permit approved for the WMNF was for an expansion of an existing ski resort. This approval process took nearly 10 years. The NPT project has already been delayed several years and with the regulatory hurdles left to confront, it is likely that the project will, at the very least, experience more delays.

Other similar transmission projects that have been proposed over the last few years for the Northeast including the Champlain Hudson line through New York and the Northeast Energy Link have also experienced opposition and potential delays. The DEEP must be mindful of this opposition and factor in the likelihood of these transmission projects actually being built before making widespread significant changes to state policy and the RPS. Basing the state's energy policy on a project such as NPT that is several years delayed and in peril is not sound policy.

### **Large-Scale State-Owned Hydro is Not Necessarily a Low-Cost Resource**

The recommendation to study the inclusion of large-scale provincially-owned hydro in the RPS is driven by a presumption that this resource is low-cost and will balance out potentially higher costs associated with other renewable resources. NEPGA strongly recommends that a component of the analysis driving the DEEP's final recommendation regarding the expansion of RPS eligible resources and whether to include this type of hydro facility should be a more full analysis of whether it is actually a low-cost resource.

Last year, the PA Consulting Group, at NEPGA's request, conducted an independent analysis on the electricity cost and economic impacts of the Northern Pass Transmission (NPT) project, and by extension the electricity that is being proposed to be delivered over the line coming from new HQ resources. The PA Consulting Group's report was limited to the data and descriptions provided in a 2010 Charles River Associates report done for the NPT sponsors. The PA Consulting report updated natural gas price forecasts from the "Early Release" version of the Energy Information Agency's (EIA) 2012 Annual Energy Outlook (AEO) and included PA's proprietary GE MAPS model. The new study found that the costs of building new transmission in Canada, new transmission in New England, recovery of costs to build a portion of the hydroelectric dams and attempts to earn some level of return suggested that "when the full economic costs of the power delivered over the NPT are considered, it becomes clear that the power is quite costly."<sup>7</sup> To date, other than the figure of \$1.2 Billion to construct the U.S.

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<sup>7</sup> PA Consulting Group, *Electricity Market Impacts of the Northern Pass Transmission Project*, June 2012, p 17.

[http://www.nepga.org/files/library/pa\\_report\\_electricity\\_market\\_impacts\\_of\\_the\\_northern\\_pass\\_transmission\\_project\\_june\\_11\\_2012.pdf](http://www.nepga.org/files/library/pa_report_electricity_market_impacts_of_the_northern_pass_transmission_project_june_11_2012.pdf)

portion of the transmission line, no other numbers have been provided for costs associated with the NPT, including the cost of power delivered into New England over the line.

Further HQ, a partner with Northeast Utilities (NU) in building the NPT, has publicly stated that characterizing imported hydro as “low cost” is inaccurate. During a panel presentation at the 2012 Regional System Plan (RSP) Public Meeting in September in Boston, an HQ representative noted that the resource is not an inexpensive resource when construction and transmission costs are taken into account and warned that HQ would not embark on any project without a profit opportunity. HQ seemed to imply that it would need an additional subsidy to make their project truly economic. No such subsidy, including through the RPS, is appropriate or should be given. It would therefore be prudent for the DEEP to factor an analysis of this type of hydro resource into the analysis driving its RPS Study and legislative recommendations. NEPGA has attached a copy of the PA Consulting study to its written comments for the DEEP’s reference as it pursues this necessary analysis.

### **Conclusion**

NEPGA appreciates the opportunity to offer these policy considerations to the DEEP regarding its draft RPS study. Our comments provide the unique perspective of the region’s generation community on the impacts of the RPS study’s recommendations on the existing competitive electric market in Connecticut. NEPGA is opposed to the inclusion of large-scale state-owned hydro as a RPS eligible resource in the proposed Contracted Class I tier as this runs counter to the purpose of a RPS. Analysis driving any ultimate recommendations on the role of those hydro resources should challenge the assumption that it is “low-cost” and that all transmission proposals to deliver this power to the region will be built, and built in a timely fashion. Further any new authority given to the DEEP to solicit electric resources for the state should not detour from the successful competitive procurement process that the State has utilized over the past decade to secure generation resources.

We appreciate your consideration of our comments and encourage you to contact us should you have additional questions.

Sincerely,



Sandi Hennequin  
Vice President  
New England Power Generators Association