STATE OF CONNECTICUT

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION ON DRAFT NOTICE OF REQUEST FOR PROPOSALS FROM PRIVATE DEVELOPERS FOR ZERO CARBON ENERGY

July 20, 2018

The Electric Power Supply Association ("EPSA") appreciates the opportunity to provide comments to the Department of Energy and Environmental Protection ("DEEP") in response to DEEP's Draft Notice of Request for Proposals from Private Developers for Zero Carbon Energy ("Draft RFP"). The issues at hand are extremely complex and EPSA commends DEEP and the Public Utilities Regulatory Authority ("PURA") for soliciting comments on how best to proceed.

Founded more than 20 years ago, EPSA is the national trade association representing leading independent power producers and marketers. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies, including owning, operating and developing major assets in Connecticut, throughout ISO New England ("ISO-NE"), and in the neighboring ISO/RTO regions in New York and the PJM Interconnection. EPSA members have invested billions of dollars in this state and region at their own risk–not on the backs of consumers–in response to, and in reliance on, the voluntary decisions of Connecticut and other states to depend on market forces to deliver safe, reliable electricity at the lowest cost to consumers, not cost-of-service regulation. These states also did so relying on the mandates of the Federal Power Act that wholesale power rates be just and reasonable and not unduly discriminatory or preferential. Power supplied on a competitive basis collectively accounts for 40 percent of the U.S. installed generating capacity, and 85 percent of that in the New England Region. EPSA seeks to bring the benefits of competition to all power customers.[1]

DEEP and PURA Should Insist on Full Transparency

While EPSA disagrees with DEEP and PURA's decision to allow Millstone Nuclear Station ("Millstone") to participate in a solicitation, EPSA implores DEEP and PURA to insist on full transparency from Dominion Energy Inc. ("Dominion"). No special Connecticut ratepayer support should be given to Millstone unless and until Dominion fulfills its burden of proving that the Millstone units are at serious risk of premature retirement—something Dominion has fallen far short of doing thus far. Additionally, at every opportunity to disprove what Levitan Associates and others have concluded[2]—including recently not submitting a retirement bid to

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[1] These comments represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

[2] Throughout this debate, studies from the Massachusetts Institute of Technology, Energyzt Advisors, LLC, and the New England States Committee on Electricity all showed Millstone to be profitable many years into the future.

- MIT Study: http://ceepr.mit.edu/files/papers/2017-009.pdf
- Energyzt Study: https://epsa.org/wp-content/uploads/2017/05/4250100000005.filename.ENERGYZT_Assessment_of_Millstone_201704_FINAL.pdf

ISO-NE—Dominion continues to attempt to obscure Millstone's strong financial footing. Accordingly, DEEP, not Dominion, must determine the nature of the data to be initially filed by Dominion. In order to maintain the integrity of prospective data, DEEP should require that all future projections be submitted under oath and penalty of false statement. Lastly, in determining a reasonable rate of return on investment, DEEP must distinguish between the return required on sunk investment versus new investment.

While EPSA opposes market-distorting subsidies of all stripes, DEEP and PURA should not consider awarding additional ratepayer dollars to Millstone—or any other generator—until they have provided plant-level, independently audited financial statements. To date, Dominion attempted to play a shell game with both legislators and regulators, invoking dire rhetoric and scare tactics at every turn, without providing credible evidence to support its assertions. With ratepayer subsidies valued in the hundreds of millions of dollars on the line to be paid solely by Connecticut consumers, a fully transparent, stakeholder-driven process is critical, and EPSA applauds DEEP for maintaining such a process thus far.

Consumer and Market Protection Should be the Priority

In the event that Millstone provides sufficient evidence that a premature retirement is likely, any power purchase agreement ("PPA") awarded to Millstone should have a term no longer than three years. Such a contract should commence no sooner than June 1, 2023, as the Draft RFP provides. EPSA commends DEEP for recognizing that Millstone is unlikely to retire ahead of the expiration of its existing capacity supply obligation. Additionally, DEEP should insist that the evidence demonstrate that it is more probable than not that a reasonable actor in Dominion's shoes would prematurely retire the Millstone units instead of continuing to operate or selling them to another nuclear operator. The mere possibility that the units could retire cannot suffice.

Additionally, as DEEP is aware, ISO-NE has commenced an Operational Fuel-Security Analysis Key Project,[3] which aims to find market-based approaches to value fuel security. No matter what construct the ISO ultimately settles on, it is safe to assume that any changes to its tariff that value fuel security will result in additional revenues for Millstone. Additionally, in a recent order from the Federal Energy Regulatory Commission ("FERC"), one potential path proposed is for ISO-NE to submit by July 1, 2019, permanent Tariff revisions reflecting improvements to its market design to better address regional fuel security concerns.[4] As alluded to in section 2.3.1 of the Draft RFP, with such a process already underway, it behooves DEEP to include maximally stringent language in any agreement awarded in order to protect Connecticut consumers from paying unnecessary subsidies to Millstone or any other unit, particularly in light of mechanisms implemented in the wholesale market that may affect cost recovery for those units.

The goal in utilizing a transparent RFP process to assess the need for any subsidy is to avoid wasting valuable ratepayer dollars, to be paid solely by Connecticut consumers, and minimize

- NESCOE Study: http://nescoe.com/wp-content/uploads/2017/04/NESCOE_Mechanisms-ScenarioAnalysis_Winter2017.pdf

3 Operational Fuel-Security Analysis Key Project, found at: https://www.iso-ne.com/committees/key-projects/operational-fuel-security-analysis

4 ISO New England, Inc., *Order Denying Waiver Request, Instituting Section 206 Proceeding, and Extending Deadlines*, Docket Nos. ER18-1509-000, EL18-182-000, (Issued July 2, 2018), 164 FERC ¶ 61,003.

the damage to wholesale and retail electricity markets and the benefits that they continue to provide to Connecticut and the region.

The fact remains that if Millstone is profitable—and all signs are that it will be for a very long time—then Millstone requires no additional state payments to stay online and continue to provide the array of attributes that such plants offer to their communities and the state. If Millstone is to be measured by a set of non-energy attributes that it provides, such as carbon reductions, jobs, taxes, or any other attribute, then all in-state generators must be measured in the same manner. Importantly, the regional competitive market administered by ISO-New England values all resources' contributions for their carbon free electricity through the region's participation in the Regional Greenhouse Gas Initiative (RGGI). This is the paradigm that Dominion signed up for when it acquired Millstone, and it's the same paradigm that generated billions of dollars of revenue for the company, none of which the company plans to refund to the state.

Lastly, in light of Dominion's recent letter to DEEP Commissioner Klee,[5] it is worth highlighting the dissembling that Dominion has employed throughout their quest for subsidies from the state of Connecticut. Dominion began this debate by claiming that they wanted to "lower rates"[6] and could "cut out the middleman"[7] in order to do so, a claim that Dominion could not explain and never even attempted to prove.

However, their recent letter belies these and other questionable claims. Dominion states that it "has participated in FCA 10, 11 and 12 (and has signaled it will participate in FCA 13) in good faith while the Company was engaged with Connecticut officials in seeking a mutually beneficial solution regarding Millstone. The Company did not participate in the FCAs because it was warranted by Millstone's current economics."

The actual timeline that tells a very different story is that FCA 10, in which Millstone received an obligation to provide capacity in the year June 2019-May 2020, was run in early February 2016, more than a month before Dominion first briefed the Legislature's Energy & Technology Committee late in March 2016 with its claim of rising costs and reduced revenue. The legislation (SB 106) that was eventually passed in October 2017 that led to the instant RFP had its first public hearing on February 7th, a day after FCA 11, which covers the period June 2020-May 2021, was completed and Millstone received an obligation to provide capacity in that year. And, Dominion passed on its opportunity to file a retirement bid in March 2017 for FCA 12 for the year June 2021-May 2022 well before discussions on the passed legislation got into full swing and was voted on in October. For Dominion to claim that it stayed in the ISO-NE's

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5 Dominion Letter to DEEP Commissioner Rob Klee. July 2, 2018. http://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/8525797c00471adb852582be00667c85/$FILE/Dominion%20Energy%20Initial%20Comments%20-%20DEEP%20Notice%20Draft%20RFP%20%2007022018.pdf

6 Said Dominion's Kevin Hennessy in May of 2017 of Millstone's potential participation in a solicitation: "Doesn't mandate that they buy anything. They would take a bid. Millstone would bid in and offer a low price bid and if the regulators selected it every customer in Connecticut would have lower rates." https://www.wtnh.com/news/politics/lower-rates-or-big-power-play-by-big-power-company_20180322103743350/1068680458

7 Written Testimony of Kevin Hennessy on Senate Bill 106 (2017) at p.4 https://cga.ct.gov/2017/ETdata/Tmy/2017SB-00106-R000207-Hennessy,%20Kevin,%20Director%20of%20State%20Policy%20in%20New%20England-Dominion-TMY.PDF

capacity market while it “engaged with Connecticut officials in seeking a mutually beneficial solution” is simply not true. DEEP is right to delay even consideration of additional revenue for Millstone to June 1, 2023, since Millstone has already agreed to provide capacity up to that point while receiving only revenue from the ISO-NE capacity and energy markets, without a subsidy from Connecticut consumers.

Even with the opportunity granted to them to provide Connecticut with proof that they are under duress in order to attain lucrative contracts in 2023, Dominion has revealed its true mission: that Connecticut should subsidize Millstone at a rate far above what the markets are likely to bear. EPSA commends DEEP for continuing to follow the facts and resisting these tactics.

EPSA appreciates the opportunity to comment on the Draft RFP process and commends DEEP/PURA for taking a thorough look at these issues. We look forward to participating in the discussion in Connecticut going forward.

Respectfully Submitted,

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