

STATE OF CONNECTICUT

**DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION PUBLIC UTILITIES
REGULATORY AUTHORITY DOCKET NO. 17-07-32**

**DEEP AND PURA JOINT PROCEEDING TO IMPLEMENT THE GOVERNOR'S EXECUTIVE
ORDER NUMBER 59**

APRIL 11, 2018

COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION

The Electric Power Supply Association (EPSA) appreciates the opportunity to provide comments to the Department of Energy and Environmental Protection (DEEP) and the Public Utilities Regulatory Authority (PURA) in response to the April 4, 2018 Notice of Request for Written Comment in connection with the Agencies' implementation of Governor Malloy's July 23, 2017 Executive Order No. 59. The issues at hand are extremely complex and EPSA commends DEEP and PURA for soliciting comments on how best to proceed. DEEP and PURA have appropriately treated these complicated issues with the rigor and attention to detail that they require.

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. 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 the 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 sustains its burden of proving that the Millstone units are at serious risk of premature retirement—something Dominion has fallen far short of doing so thus far. Additionally, at every opportunity to disprove what Levitan Associates and others have concluded²—including recently not submitting a retirement bid to ISO-NE in the 12th Forward Capacity Auction—Dominion continues to attempt to obscure Millstone's strong financial footing. Accordingly, DEEP or PURA, not Dominion, must determine the nature of the data to be initially filed by Dominion. Additionally, 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

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.

ratepayer subsidies valued in the hundreds of millions of dollars on the line, a fully transparent, stakeholder-driven process is critical, and EPSA applauds DEEP for maintaining such a process thus far.

It is also important for DEEP and PURA to understand how Millstone's already robust financial position has actually strengthened since Levitan Associates completed the Resource Assessment. In December 2017, President Donald Trump signed legislation that dramatically reduced the corporate tax rate. At Page 86, the Resource Assessment estimates Millstone's federal income taxes at \$150 million per year. A simplistic calculation shows that the tax rate reduction from 35 percent to 21 percent yields about \$60 million in incremental cash flows. In light of this game-changing development, EPSA strongly urges DEEP and PURA to follow the lead of state and federal utility regulators throughout the country and have Levitan Associates re-run its financial model. The resulting information will put to rest any concerns about Millstone's financial well-being.

Price and RFP Parameters

The "forecasted price of energy and capacity" should not be determined by DEEP until all bids have been submitted. This is critical to ensuring that bids are submitted as competitively as possible which, in the event of a contract being awarded, will help to minimize additional costs to Connecticut ratepayers. Additionally, any procurement for nuclear resources must rely only on the authority delegated to DEEP in Public Act 17-3 (June Sp. Sess.).

EPSA also commends DEEP for sequencing the proceedings such that the bids must be submitted before PURA's "at risk" determination is made. This process will make it much more difficult for Millstone to submit a "not at risk" bid (as outlined in the DEEP determination) that subtly delivers an unwarranted subsidy to Dominion under the guise of being "below the forecasted price of power."

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 states. 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 fully values all resources' contributions to the electricity system. This is the paradigm that Dominion signed up for when it acquired Millstone, and it's the same paradigm that generated billions of dollars for the company—none of which the company plans to refund to Connecticut electric customers.

Any Special Connecticut Ratepayer Support for Millstone Should be Minimized

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 commencing no sooner than June 1, 2022. The evidence of need must demonstrate that it is more probable than not that a reasonable actor in Dominion's shoes would prematurely retire the Millstone units. The mere possibility that the units will retire cannot suffice.

Additionally, any extensions of the term of a PPA must be subject to a renewed submission of evidence demonstrating need and a new evaluation of that evidence by DEEP. In order to better protect Connecticut ratepayers, any Millstone PPA should have a tracker mechanism with an annual DEEP audit procedure to provide for:

- The return to ratepayers of any excess revenues;

- The non-recognition of any controllable expenses in excess of the lower of i) the expense levels provided in the need demonstration; or ii) reasonable and prudent expense levels; and
- The return to ratepayers of any returns in excess of the minimum required levels.

By being judicious in awarding any potential subsidies, DEEP can avoid wasting valuable ratepayer dollars and minimize the damage to wholesale and retail electricity markets and the benefits that they continue to provide to Connecticut and the region.

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

Respectfully Submitted,
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