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TESTIMONY

OF

DAN DOLAN

ON BEHALF OF

NEW ENGLAND POWER GENERATORS ASSOCIATION (NEPGA)

**2015 – Senate Bill 1965
An Act Relative to
Energy Sector
Compliance with the
Global Warming
Solutions Act**

**JOINT COMMITTEE ON TELECOMMUNICATIONS,
UTILITIES AND ENERGY**

September 29, 2015

My name is Dan Dolan and I am President of the New England Power Generators Association (NEPGA).¹ Thank you for the opportunity to provide comments on Senate Bill 1965, *An Act Relative to Energy Sector Compliance with the Global Warming Solutions Act*. NEPGA has significant concerns with this bill and we urge the Committee to reject it.

NEPGA is the trade association representing competitive electric generating companies in New England. NEPGA's member companies represent approximately 25,000 megawatts (MW), or 80% of all generating capacity in the region. In Massachusetts, NEPGA represents nearly 85% or roughly 11,000 MW of generation capacity located in 25 towns and cities from a diverse portfolio of fuels and technologies. NEPGA's members employ 1,400 workers in the Commonwealth and contribute nearly \$70 million in state and local taxes. NEPGA's mission is to promote sound energy policies which will further economic development, jobs, and balanced environmental policy. We believe that sustainable competitive markets are the best means to provide long-term reliable and affordable supplies of electricity for consumers.

NEPGA members have invested tens of billions of dollars here in Massachusetts and New England for the opportunity to compete in the marketplace every day. These investments support thousands of employees who live and work in the Commonwealth as well as the tax base that funds schools, roads and essential services in more than two dozen Massachusetts communities. From these Massachusetts investments power generators provide competitively-priced, reliable and environmentally responsible electricity for consumers without any guaranteed cost recovery, guaranteed returns or special state handouts.

Threats to Competitive Electric Pricing for Massachusetts

For more than 15 years Massachusetts has been a leader across the region in developing and supporting competitive electricity markets. These markets have helped drive tremendous efficiency gains at existing power plants – offsetting the need for additional new plants – while also supporting necessary additional infrastructure. The electricity marketplace in Massachusetts and across New England is highly competitive with facilities located here competing against each other as well as with resources in New York and Canada to deliver the best prices to consumers.

So far in this year, New England has seen five of the seven lowest wholesale electricity price months since 1997. In fact, June of this year was both the lowest price wholesale electricity month as well as the lowest natural gas month since 2003. The competitive markets are driving price competition and new investments in plants that will support reliability and continued environmental excellence for decades to come. Massachusetts should continue to rely on a well-regulated and well-designed marketplace to provide the opportunity for generators to compete and

¹ The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

benefit consumers here.

Unfortunately, Senate Bill 1965 would mark an historic and dramatic departure from these principles and once again burden consumers with the costs and risks of the “bad old days” of monopoly electric utilities. The bill would benefit provincially-owned, utilities in Canada – Hydro Quebec and Nalcor – to the detriment of Massachusetts consumers and local power plants that are often the largest taxpayers and employers in their communities. It would create a cornered market in which these government-owned utilities could receive above-market prices for one third of Massachusetts’ electricity demand. Subsidizing large-scale, provincially-owned hydropower through 15 - 25 year contracts may increase electricity costs here at home and won’t even guarantee lowered carbon emissions – the goal of the legislation.

In preparation for this hearing, NEPGA requested an independent review of the consequences of moving Massachusetts in this new policy direction by Dr. Susan F. Tierney² of the Analysis Group. Her report has been submitted for the record.³ Dr. Tierney’s report highlights that when the total transmission and energy costs are included, these long-term contracts may cost Massachusetts consumers an extra \$777 million every year in above market costs that every residential and business customer in Massachusetts would be paying for 15 - 25 years.⁴ As the report says, “When considered in total, the costs of the power and the transmission delivery facilities are likely to be well above market prices if procured in the manner anticipated by Senate Bill 1965.” That power will not come cheap for Massachusetts’ consumers. Dr. Tierney’s report goes on to state, “such an exorbitant cost does not appear to be justified even with the other policy considerations weighed.” By any metric, these are exorbitant costs to layer on to consumer bills.

Environmental Leadership and Emission Reductions

Proponents have described Senate Bill 1965 as necessary to help meet Massachusetts’ carbon reduction mandates. But in the only analysis of electricity sector carbon emissions in Massachusetts that has been released to-date, Dr. Tierney’s report states, “The bottom line is clear – Massachusetts is on pace for power plants to far exceed their 2020 emissions goal under the Global Warming

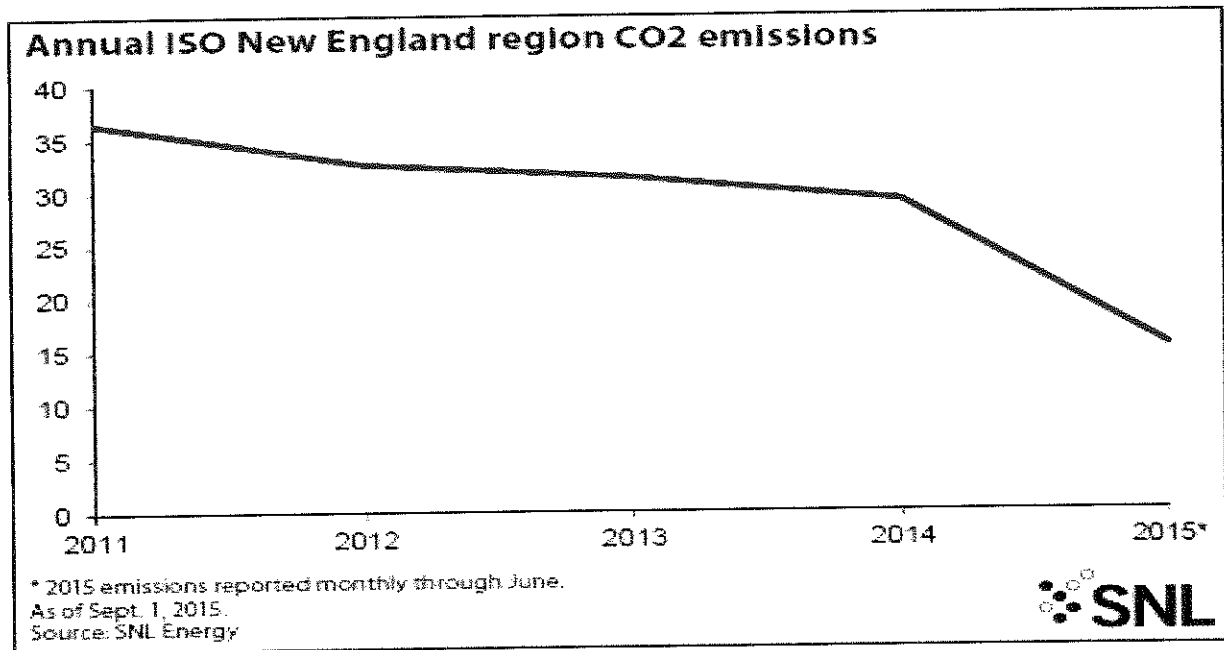
² Dr. Tierney is a former Secretary of Environmental Affairs and a former public utility commissioner in Massachusetts; she has also served as a former Assistant Secretary of Policy at the U.S. Department of Energy. She holds both Ph.D. and M.A. degrees from Cornell University and a B.A. degree from Scripps College. Tierney is a recognized leader in environmental advocacy, clean energy and competitive electricity markets.

³ “Proposed Senate Bill 1965: An Act Relative to Energy Sector Compliance with the Global Warming Solutions Act -- Potential costs and other implications for Massachusetts consumers and the state’s and region’s electric system,” Susan F. Tierney, PhD, Analysis Group, Inc., September 2015. <http://nepga.org/2015/09/tierney-report-on-ma-emissions-cost-of-hydro-contracting/>

⁴ See pages 4-6 of the Tierney Report for a detailed analysis of these calculations.

Solutions Act. Senate Bill 1965 is simply not necessary to meet these goals, especially at the direct and indirect costs it would introduce into the region's energy system." As further noted by Dr. Tierney, Senate Bill 1965 "would be a potentially near-term disruptive element in the pathway toward continuing to reduce emissions, and would not accomplish its hoped-for goals of moving toward a cleaner electricity sector at a reasonable cost or reasonable way."

In fact, competitive power generators have helped drive dramatic reductions in emissions. Since 2011, carbon dioxide emissions have been cut dramatically in New England.



Massachusetts should be proud of this leadership, but also recognize the costs, challenges and consequences with attempting to dramatically exceed clearly set emissions goals through out-of-market mechanisms like Senate Bill 1965. This is particularly so when it appears that the other sectors of the economy covered by the Global Warming Solutions Act (i.e., transportation and buildings) may not have received the attention necessary to be in compliance. As discussed in the Global Warming Solutions Act: 5 Year Plan Progress Report,⁵ (GWSA Progress Report) issued January of 2014, reductions in the generation sector have clearly exceeded both the transportation and building sectors by significant amounts. Both Dr. Tierney's report and the GWSA Progress Report demonstrate that the generation sector is aggressively pursuing and actually surpassing its reduction goals. NEPGA urges the legislature to further examine the other sectors contemplated by the GWSA Progress Report. The GWSA was an economy-wide mandate, one that the electricity sector is meeting aggressively, but a mandate that cannot be met by power generators alone.

⁵ <http://www.mass.gov/eea/docs/eea/gwsa/ma-gwsa-5yr-progress-report-1-6-14.pdf>

Instead of the ill-conceived proposal in Senate Bill 1965, the Commonwealth should continue to take advantage of the clean energy and market-based principles that Massachusetts and the other New England states have been at the forefront of pursuing. As Dr. Tierney's report notes, "Relying upon market-based approaches – rather than out-of-market-contracts that impose undue (and unnecessary) risk on electric consumers in Massachusetts – is a practical and effective long-term model. This is the hallmark model that has been used in virtually every successful emissions market in the world, including the [Regional Greenhouse Gas Initiative] in which all New England states participate today. Senate Bill 1965 would be a giant step in the other direction, and is not the right path forward."

Consequences to Electric Reliability in Massachusetts

Nor will the proposed legislation improve New England electric system reliability. Hydro Quebec's sudden curtailment of its exports into New England has caused the two most recent significant reliability events in New England. In December 2014, Hydro Quebec curtailed approximately 2,000 MW of exports into New England in a matter of minutes in order to meet its own domestic service obligations to its customers, causing ISO New England to take several operating steps necessary to avoid domestic supply disruptions. Notably, every generator in New England called upon during this event performed to support reliability in the region. Hydro Quebec likewise unexpectedly curtailed its exports into New England in December 2013 to meet its system needs, again causing ISO-NE to take operating steps outside of the normal course of business to guarantee New England system reliability.

This risk is further compounded by language in Senate Bill 1965, which expressly excuses non-performance under these long-term contracts due to "force majeure" interruptions. As that term is commonly applied in contracts, it relieves a party of performing their contractual obligations when circumstances beyond their control arise making performance commercially impracticable, illegal or impossible. Conversely, generating units participating in ISO New England's new "Pay for Performance" capacity market are subject to requirements and penalties to assure delivery of energy to support reliability without excuse for non-performance, *for any reason*, whether due to force majeure or otherwise. This new capacity market design is at the core of ISO New England's plans for system reliability going-forward and all market players should be held to the same standards in order to ensure the level playing field necessary for any competitive market to thrive.

Plant Closures and Economic Impacts

One of the most troubling consequences of this policy proposal is the very real threat to existing power plants here in Massachusetts and across New England that are economically viable today, but could be forced to shut down prematurely if they are undercut by an artificial subsidy. As noted in Dr. Tierney's report, "The energy system in Massachusetts, like almost every other part of the U.S., depends heavily on private companies and capital markets to provide the investment and other resources needed to keep electricity as affordable and reliable as possible while also becoming increasingly clean. A healthy and sustainable investment climate is an essential ingredient for achievement of our economic, environmental and other

goals for the power system. Enactment and implementation of this bill runs counter to that investment environment.” Despite the appearance that Senate Bill 1965 would rely on a market-based solicitation to procure new renewable or hydroelectric resources as one-third of the state’s electricity supply, this bill runs counter to the market-based principles upon which the Commonwealth relies.

As was highlighted by the reports by the Salem Harbor Power Station Plant Revitalization Task Force incorporated by the General Court,⁶ plant closures can have a tremendous impact to host communities. These manufacturing facilities are often the largest employer and tax provider in their host communities. Even under the best of circumstances when a closure is driven by fundamental market economics and new investment is proposed to replace it – as is occurring for the Salem Harbor facility – this is an enormously challenging undertaking. While it may not be possible to predict with precision the premature retirements that are certain to follow as a result of Senate Bill 1965, Dr. Tierney concludes that “it is safe to say...that hundreds of Massachusetts jobs at power plants would be put at serious risk by [Senate Bill 1965].” These are real jobs with potentially devastating tax implications for host communities. Senate Bill 1965 would replace these Massachusetts jobs by sending above-market revenues to Canadian utilities.

Today, the CEOs of six generating companies with 21 facilities and more than a thousand employees in Massachusetts, submitted a joint letter describing the likely effect on their businesses if long-term subsidized contracts are awarded as authorized by this legislation. Noting that the bill “undermines the billions of dollars our companies have invested here to support competitive electricity service for consumers and the thousands of workers we proudly employ,” the executives called for the legislature to “reject that proposal as bad for consumers, bad for businesses and bad for the investment climate in the Commonwealth.”

Consistent with this message, Dr. Tierney’s report concludes that enactment and implementation of Senate Bill 1965 “would send the signal to private investors that Massachusetts is willing to adopt policies that fundamentally change the rules of the game that other power supplies have depended upon and had to live by. Local power plant owners – some of whom also provide significant quantities of power with no or little carbon pollution – have invested tens of billions of dollars here for the right to compete to serve consumer electricity demand reliably and efficiently, while driving dramatic reductions in emissions.” This is simply a very bad deal for Massachusetts.

Providing a guarantee to provincially-owned large-scale hydropower for 1/3rd of all electricity consumed in Massachusetts not only detracts from the Commonwealth’s energy initiatives, but also undermines local innovation, investment and jobs. This bill picks winners and losers. The winners are provincially-owned Canadian utilities. The losers are Massachusetts’ consumers, who may unnecessarily pay higher electricity costs, for, in Dr. Tierney’s words, “hoped for outcomes,” while local power

⁶ <http://www.mass.gov/eea/energy-utilities-clean-tech/salem-harbor/>

plants, which would otherwise be able to stay open, are forced to close.

It is clear that Senate Bill 1965 is unnecessary to help Massachusetts reach its greenhouse gas emission goals under the Global Warming Solutions Act, will not bring cheaper energy to Massachusetts' consumers and will not improve the reliability of the region's electric grid. It will, however, result in lost jobs and lost revenue within the Commonwealth and send the entirely wrong message to businesses looking to invest in Massachusetts. This is not the path forward for Massachusetts.

I urge the Committee to reject Senate Bill 1965.

