January 25, 2018

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Executive Secretary
Public Utilities Regulatory Authority
10 Franklin Square
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Ms. Debra Morrell
Department of Energy and Environmental Protection
Bureau of Energy and Technology
10 Franklin Square
New Britain, CT 0601

Re: Docket No. 17-07-32 Joint Proceeding to Implement Governor's Order No. 59

Dear Mr. Gaudiosi and Ms. Morrell:

NRG Energy, Inc. ("NRG") offers the following comments in response to the January 22, 2018 Draft Report and Determination (the "Draft Determination") issued by the Department of Energy and Environmental Protection ("DEEP") and the Public Utilities Regulatory Authority ("PURA," together with DEEP the "Agencies") regarding the Millstone Nuclear Generating Facility ("Millstone") owned by Dominion Energy Nuclear Connecticut, Inc.("Dominion").

I. The Agencies' Late-Game Reversal Stymies Meaningful Participation

The Draft Determination represents a significant departure from the Agencies' December 14, 2017 Draft Report and Resource Assessment issued by the Agencies and Levitan & Associates, Inc. ("LAI"). After nearly six months of deliberative administrative process and study, the LAI report rightly concludes that – even under favorable assumptions – economics suggest that Millstone will remain profitable for many years. Indeed, the LAI Report comports with other independent studies reaching similar conclusions regarding Millstone's profitability. Simply put, after months of diligent study by the Agencies and LAI, there is no evidence or analysis in the record that points to a premature Millstone retirement. Nevertheless, with less than two weeks until the statutory deadline, the Draft Determination casts aside the key issue in this proceeding regarding Millstone's actual retirement risk and recommends a massive procurement on a scale not seen in Connecticut in recent times. Despite the dramatic reversal in the Draft Determination, the Agencies have provided less than four days' notice for participants to review, digest and comment on the Agencies' last-minute change of heart. After six months of diligent and deliberate process, stakeholders cannot provide meaningful comment on a completely retooled analysis delivered several days before the statutory deadline.

By refusing to submit Millstone's limited confidential financial data until the last possible moment, Dominion ran down the clock to the disadvantage of those who will unnecessarily pay for services Dominion will provide regardless of the state's actions. Dominion's refusal to provide any economic data until after the completion of the initial LAI Analysis has successfully stymied any opportunity for the public to review and comment on the Agencies' revised analysis, which now recommends Connecticut move forward with the most significant wholesale energy procurement in Connecticut state history. Dominion has successfully hidden the ball and thereby shut out meaningful public dialog on one of Connecticut's most pressing energy policy matters.

II. Need – the Gating Item – Has Not Been Demonstrated

Public Act No. 17-3 (June Special Session) authorizes a solicitation of proposals from nuclear units if and only if the results of the Agencies' appraisal "demonstrate that action is necessary . . . ." The Draft Determination falls far short of demonstrating that "action is necessary."

To the contrary, it's undisputed that:

- Dominion refused to provide responses to the Agencies' interrogatories issued in August 2017;
- The limited data supplied by Dominion under a protective order did not provide a full financial picture of Millstone's finances and was not verified under oath or otherwise audited to ensure its accuracy;
- LAI concluded that, even under the most unfavorable assumptions, the Millstone plant will remain profitable through at least 2035; and
- Because of its capacity supply obligation to ISO-NE, Millstone effectively cannot shut down before 2022.

Dominion cleverly avoided the regulatory scrutiny contemplated by both Public Act No. 17-3 and the Governor's Executive Order No. 59. It did so by first stonewalling regulators' inquiries, forcing the Agencies and LAI to manufacture proxy data to assess profitability and finally by selectively submitting incomplete information very late in the process. Despite the Agencies' own conclusion that Millstone's financial disclosure was "late-filed," "unsubstantiated" and "summary," the Draft Determination nonetheless rewards Dominion with access to a future procurement in which it can bid against other resources with no proper evidence of need or benefit. In addition to being an unnecessary and costly strategy for Connecticut ratepayers (see section 3 below), the path outlined by the Draft Determination — proceeding with a procurement without a specific determination regarding need — is not authorized by Public Act No. 17-3.

Any rational actor seeking special ratepayer support that had financial data pointing toward premature retirement would share that data confidentially with regulators. Dominion's failure to do so requires the Agencies to draw the obvious inference: No such financial data exists. Moreover, Dominion was provided the opportunity, over a six month period, to substantiate its claims and demonstrate a need for a ratepayer subsidy. Dominion declined. Dominion also chose not to pursue existing remedies to its purported financial distress through ISO-NE and the Federal Energy Regulatory Commission; those entities would have required actual documented need. Dominion should not be given yet another chance to turn over its financial data — this time to secure favorable RFP pricing — as the Draft Determination contemplates. Dominion had plenty of chances to prove its retirement bluster. It does not need another.

III. A Millstone Bailout is a "No Win" Solution for Connecticut Ratepayers

Despite assertions by Dominion to the contrary, there is no "win-win" solution for both Connecticut ratepayers and Dominion. Dominion seeks more revenue. And that revenue will — inevitably — come from Connecticut ratepayer pockets. The "existing resource" price-based procurement outlined on page 41 of the Draft Determination logically describes a null set. Dominion would never submit a bid price "lower than the forecasted price of energy and capacity" because that will yield less revenue than the status quo. And if the Dominion bid is more than the forecasted price (gaining the incremental revenue Dominion seeks), Connecticut would be foolish to accept the bid.

There is no middle ground for the wished for "win-win" unless the parties have substantially different predictions of forecasted pricing. To the extent that forecasts differ, Connecticut consumers will be sitting down at the poker table with Dominion across the table. As stated in NRG's earlier comments, locking Connecticut's consumers into a long-term contract for existing nuclear facilities forces ratepayers to absorb market price risk that should properly rest with the generator. Shifting risks from shareholders back to ratepayers is exactly the type of behavior the General Assembly sought to prevent when the markets were restructured. Since deregulation, competition has driven wholesale electricity rates to historic lows. Connecticut's ratepayers deserve access to these prices.

Forcing Connecticut's ratepayers to purchase out-of-market, overpriced power to support what the Massachusetts Institute of Technology described as the most profitable nuclear plant in the U.S. is not a sound economic development strategy, and even worse energy policy. Entering into such out-of-market contracts is even more egregious when such contracts are awarded to existing resources that have taken no steps in the wholesale market to enable the plant's retirement, a clear indication that

Dominion has no intention of doing so. The Agencies must take stock of the potential job losses and impact on Connecticut's broader economy that will occur as a result of higher electricity prices under a Millstone payout.

Competitive markets — not uncompetitive handouts — provide the most economically efficient result for ratepayers. Under no scenario will ratepayers pay less by paying more for Millstone's existing output. And in fact, since Millstone effectively cannot retire before 2022, any additional revenues the plant receives through a procurement before that time will amount to nothing more than a transfer of wealth from the pockets of Connecticut ratepayers to Dominion's shareholders, with ratepayers receiving no additional benefit.

IV. Reliability Cannot Justify the Special Procurement

The Draft Determination uses Millstone's role in keeping the lights on as a justification for going forward with the special procurement. In doing so, the Draft Determination oversteps the state's legal jurisdiction, misreads key ISO New England, Inc. ("ISO-NE") reports and uses badly flawed logic.

A. ISO-NE Has the Exclusive Legal Obligation to Keep the Lights On

The Draft Determination (see pp. 19-20) points out a number of concerns regarding reliability, but the determination fails to acknowledge that ISO-NE, not the state of Connecticut and its electric ratepayers, is the only entity with the legal responsibility to ensure system reliability. When individual states use out-of-market solutions in an attempt to correct perceived flaws in federal wholesale markets, their actions are preempted by federal law.

B. ISO-NE Has Not Concluded that a Millstone Retirement Threatens Reliability

The authors of the Draft Determination have misread the "Operational Fuel Security Analysis" released by ISO-NE on January 17, 2018 (the "Fuel Security Report"). Section III of the Draft Determination concludes by stating that "[ISO-NE] has concluded that significant amounts of load shedding in the region are unavoidable in the event of a retirement of the Millstone Station."[1]

The Fuel Security Report analyzes nearly two dozen scenarios to identify risks associated with the region's growing dependence on natural gas. All of the ISO's planning scenarios show Millstone continuing to operate through the 2030s without any financial assistance from the state.

The Draft Determination tries to make much of a sensitivity study conducted by ISO-NE that shows that the *unexpected* loss of Millstone could cause blackouts. It is

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[1] Draft Determination at 22.

hardly surprising that a catastrophic and unanticipated failure of one of the largest units in the country would cause the grid to fail. If anything, the citation to the sensitivity study highlights the dangers of relying on a single super-sized generating facility.

Moreover, these arguments completely ignore the multitude of ISO-NE market safeguards that prevent exactly the type of unanticipated departure of a large generator, including:

- Capacity market rules that require departing generators to provide almost four years' advance notice before a generator can leave the system;

- Units seeking to shed a capacity market obligation must "buy out" of any forward obligation before they are allowed to leave, which allows the ISO to procure replacement capacity;

- Any units seeking to leave the market are subject to the consumer protections provided by FERC-regulated markets, including reliability reviews to detect and prevent market manipulation, analysis based on thorough review of supplier's actual costs and risks, etc.; and

- As a last resort, ISO-NE rules allow it to retain a generator needed for reliability utilizing its Reliability Must Run authority.

Finally, NRG agrees with ISO-NE that retaining non-gas fired resources are important to the long-term reliability of the grid. However, New England's existing coal and oil fleet — much of which is located in Connecticut — is equally critical to winter reliability concerns, and according to ISO is more at risk of retirement. ISO-NE's 2017 Regional Electricity Outlook underscores this point: The grid operator determined that 11 generation resources in New England are at risk of closure, and Millstone is not one of them[2]. It is also important to note that Connecticut's oil-fueled facilities also employ hardworking and skilled employees, and are often the largest taxpayers in their respective municipalities.

C. The Draft Determination's Reliability Logic is Flawed

Even if reliability were under the state's jurisdiction, the Draft Determination inappropriately leaps from the premise that the electric grid is strained during peak winter periods to the conclusion that one resource – Millstone – should receive special support. During times of tight supply, many resources are essential to keep the lights on, not one. A review of the ISO Fuel Security Report shows that the system operator is far more concerned with the reliability impacts of early retirements of coal- and oil-fired units than with a potential Millstone retirement. Further, propping up one resource

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2 https://www.iso-ne.com/static-assets/documents/2017/02/2017_reo.pdf

with out-of-market subsidies merely shifts the retirement risk to other units and concentrates the costs to Connecticut ratepayers in a regional marketplace.

V. Nuclear Harms Connecticut's Carbon Dioxide Emissions Goals

Connecticut has far more cost-effective means of reducing carbon emissions than providing corporate welfare to Dominion. Truly renewable energy resources are rapidly decreasing in cost and lack the significant risks to public health, safety, and the environment that nuclear generation entails. Solar, in particular, has reached grid parity in more than half of U.S. states[3] -- meaning that its levelized cost of energy is less than or equal to the price of purchasing power from the electricity grid. For example, Xcel Corporation in Colorado recently received bids for new wind energy for an average price of $18/MW-hour. Solar combined with storage was priced at $36/MW-hour. While renewables in New England are still more expensive than in Colorado, they are increasingly cost-competitive, and there are many opportunities for Connecticut and its ratepayers to benefit by investing in the state's renewable capabilities. By contracting with Millstone, Connecticut loses the opportunity to grow its renewable energy workforce and increase the renewable generation in the state at a per-MW-hour cost that compares favorably with a Millstone subsidy.

Further, the carbon reduction benefits associated with investing in new renewables greatly exceed the benefits of "renting" the decades old Millstone plant for a few more years (even if we ignore the incontrovertible evidence that Millstone is in no danger of shutting down). Earlier this month, a report by Energyzt Advisors confirmed that regulators will need to dramatically scale up invest in renewables in order to meet Global Warming Solutions Act (GWSA) goals, whether Millstone continues to operate or not[4]. Last week, the Connecticut Governor's Council on Climate Change (GC3) voted unanimously to recommend a greenhouse gas emissions reduction target of 45% below 2001 levels by the year 2030.The GC3's analysis further demonstrated the need for a faster transition to a clean-energy economy in order achieve the state's mandated goal of an 80% emissions reduction by 2050. This new target for 2030 is one of the most aggressive interim targets of any state in the nation, and it will have a direct impact on state climate and energy policies. In other words, if the Agencies are serious about meeting GWSA mandates, Connecticut must focus any procurements on renewable energy, electric vehicles and more efficient buildings – not a subsidy for an aging and polluting nuclear plant.

The U.S. nuclear generation fleet has been in service for decades. Since the peak of the nuclear age, the development of new and proven solar, wind, and other renewable energy technologies now provide zero-carbon alternatives to nuclear resources, without the significant negative externalities associated with nuclear power. Indeed, a renewable resource build today will have a 20-40 year useful life. Thus,

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3 https://www.seia.org/research-resources/solar-market-insight-report-2017-q4
4 https://epsa.org/wp-content/uploads/2018/01/ENERGYZT_CT-Approaches-to-Carbon-Reductions_01082017_FINAL_Corrected-Figures.pdf

renewable resources built today will be long-term contributors to Connecticut's renewable future and jobs growth, whereas Millstone is unlikely to contribute in a similar manner.

Finally, it is paramount that the Agencies not put nuclear fusion and true renewable technologies on a par. The Millstone units produce high-level radioactive waste every day they are in operation. There are currently hundreds of tons of depleted uranium stored on the Millstone property on the Long Island Sound. Much of the waste has been there for decades and will continue to be stored in Waterford because federal regulators have not been able to implement a long-term plan to treat or store nuclear waste. Although nuclear and renewables share one environmental attribute, Connecticut's long-standing policy has been to differentiate between these technologies, such as making nuclear ineligible for the Renewable Portfolio Standard. The Draft Determination deviates from this precedent by allowing Millstone still another chance[5] to demonstrate financial need and thereby become eligible to bid into a procurement as an "existing resource confirmed at risk" and get credit for being a carbon-free resource that is neither renewable nor clean.

Respectfully submitted,

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5 This, after Dominion had nearly seven months in which to document its financial need and refused to do so.