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**MEMORANDUM**

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**TO:** MEMBERS OF THE JOINT COMMITTEE ON TELECOMMUNICATIONS, UTILITIES, AND ENERGY  
**FROM:** DEBORAH DONOVAN, UNION OF CONCERNED SCIENTISTS  
**SUBJECT:** ORAL TESTIMONY  
**DATE:** JUNE 28, 2005

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This memo contains the comments of the Union of Concerned Scientists (UCS) on bills being head by your committee today. UCS appreciates the opportunity to provide you with the following comments. I am available to discuss our comments with your further.

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Regarding SB 1669, SB 1671, and HB 3290: Please Oppose.

There are three bills before the committee today that in some way alter the definition of what electricity generating technologies qualify for the state's RPS: SB 1669, SB 1671, and HB 3290.

UCS is strongly opposed to all of these proposed changes as to the RPS. These proposals undermine the original intent of the legislation: to provide incentives to add new renewable energy resources to our electric system. As you consider these bills, I ask you to keep this intent foremost in your deliberations.

The purpose of my comments here today is to reinforce the need for using extreme caution in making any such changes. The current supply/demand imbalance of renewable energy certificates (RECs) is clearly in need of attention. However, addressing the shortsighted and unnecessarily expensive approach utilities are using to procure RECs on behalf of their customers would be far more productive, effective, and fair to consumers.

There is strong agreement among national and regional experts on RPS programs regarding "best practices" by which legislators and regulators should implement their standards. Among these best practices is the principle that the rules establishing which types of resources are eligible to meet RPS obligations must be highly stable. This means making as few changes as possible, and only using the utmost discretion. If changes are made, these experts also stress the importance of:

- being especially precise about any changes to eligibility definitions and
- providing the market with significant notice between a decision to change the RPS and when in takes effect: at least 2-3 years.

All participants in an RPS compliance market, utilities, competitive suppliers, generators, and others, deserve and require market stability in order to make decisions. The kind of changes proposed in these three bills creates uncertainty and risk that I urge the committee to avoid. This uncertainty undermines the ability to achieve what is most needed in the current situation: long-term contracts between credit worthy buyers of RECs and project developers. I will discuss in more detail the importance of long-term contracts in my testimony on HB 3329 and 3330.

In addition to undermining future investment in new renewable facilities, the eligibility changes proposed in these three bills also undermine the investments made by developers since the RPS was established because

they are likely to drive a dramatic reduction in the value of renewable energy from facilities both supplying the RPS market today and currently under development.

It may very well be that certain classes of clean, renewable facilities, either new or existing, require or deserve support. There are other, more desirable ways to establish such support without undermining the current RPS. For example, other state programs have established separate targets for technologies such as existing hydroelectric dams with low environmental impacts or existing biomass facilities that reduce their air pollutant emissions. Interestingly, in Connecticut, they are also considering establishing a separate target to provide incentives for new investment in energy efficiency and cogeneration.

UCS strongly urges the members of the committee to reject these three bills and focus on an approach that addresses the current REC shortage by dealing with one of its major underlying causes: the lack of long term contracts for RECs.

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Regarding SB 1826 and HB 3292: Please support.

Net metering is a policy that encourages the development of renewable energy on the electricity system. UCS believes the limitations on the size of renewable energy installations in current MA law of 60kW are too low and should be increased for clean, renewable generation to provide incentives for renewable energy. Increased development of renewable systems distributed around the electricity grid improves the diversity of energy sources and fuel used to generate electricity. Renewable energy sources also increase system reliability and reduce pollution emitted from large centralized power plants. They also save consumers money if they are available to generate electricity at times of system peaks and other emergencies, and their potential to avoid costly investments in power plants and transmission.

SB 1826 demonstrates a strong commitment to solar energy by increasing the maximum size of a solar installation from 60kW to 500 kW and UCS supports the aim of this bill. However, UCS has also reviewed another bill, HB 3292. We would like to voice our strong support for HB 3293 because it applies to all renewable generators and because it increases the maximum size of a net metered facility to 2MW.

Another important feature of HB 3292 is the ability of owners of net metered renewable installations to settle their account on an annual basis. This aspect of net metering acknowledges that there are seasonal variations in the output of some renewable technologies, including solar and wind. By annualizing net metering system owners get a full credit for their electricity generation over the course of an entire year.

Passage of this bill would put MA head and shoulders above the 38 other states that have net metering provisions at a time when we need clean reliable renewable energy most.

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Regarding HB 3280: Please Oppose.

Ideally, construction materials should be recyclable, and construction and demolition (or C&D) debris should be recycled. States like MA with concerns about waste reduction, climate change, and air toxics should be working toward maximizing the recycling of C&D debris. C&D debris can be contaminated with paint, preservatives, plastic or metal, which can create toxic air emissions when combusted.

Why then, does the MA RPS include “clean” C&D debris as an eligible renewable fuel? Because if it is not being recycled, using clean C&D debris to generate electricity is preferable to the materials going to a landfill, incinerator, or to the use of whole logs for biomass fuel.

What does it take to make this work? First, clean wood must be separated from the C&D waste stream through proper adherence to handling, sorting, and separation requirements established by the DEP. This process is intended to remove all but de minimis levels of painted, treated, or pressurized wood, and wood contaminated with plastics and metals. The facilities that produce RPS-eligible C&D debris are permitted under Site Assignment and Solid Waste Facility regulations that cover these handling requirements.

Next, the DEP must issue operating permits to the biomass plant and enforce them. Any facility burning fuel derived from a C&D waste source will require an approval from DEP (Beneficial Use Determination). In addition, such a facility requires an air quality permit. Most importantly, it is essential that the permit include strict limits on the emissions of air toxics and that these limits are complied with.

UCS believes that in the absence of the ability to aggressively recycle C&D debris and in the presence of a strong regulatory program, using clean C&D debris as an RPS-eligible fuel is acceptable and changes to current legislation and regulation are unnecessary. However, we believe it is important that state regulators limit the potential air toxic impacts of biomass facilities using clean C&D debris as fuel.

As we comment elsewhere regarding other changes to the eligibility of fuels and technologies current part of the RPS, making sudden, arbitrary changes to eligibility rules in the RPS is disruptive and goes against an important principle of program implementation: making as few changes as possible, using the utmost discretion and significant advance notice to market participants.

UCS believes that further investigation may be necessary into the extent to which the permitting and operations of biomass facilities fueled by C&D debris pose a threat. Prior to that, setting an arbitrary limit on the amount of C&D debris that facilities already participating in the RPS market use is a poorly informed policy decision.

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Regarding HB 3329 and HB 3330: Please Support.

UCS strongly supports the shared goal of these two bills. They are aimed at addressing one of the two major barriers to meeting the goals of the RPS in the most cost effective way. Currently, consumers are being charged too much by their electricity providers for RPS compliance and the development of renewable facilities is lagging behind demand from the MA RPS and programs in other northeast states. As a region, we face challenges with siting commercial scale renewable facilities and many of us here today are working hard to address siting barriers. In addition, the lack of long term contracts between MA electricity providers and renewable generators is standing in the way of increasing electricity generation from clean renewable sources at the fairest price. While the siting issue is of equal importance, we support legislative action now on long-term contracts in the face of years of inaction by regulators and imprudent procurement by load serving entities (LSEs).

By requiring that LSEs enter into long term contracts for renewable energy certificates (RECs) as proposed by HB 3329, or by establishing the authority for a centralized REC procurement mechanism as proposed by HB 3330, the legislature can act to quickly implement a solution to a costly problem. Right now, RECs buyers are mostly buying on the spot market or paying the Alternative Compliance Payment (the ACP), which represents the maximum possible price for RPS compliance. There is no need to make drastic changes to the RPS itself to remedy this situation, as some other bills considered today would do.

Long-term contracts make economic sense for renewable facility developers, LSEs, and consumers. Renewable energy plants can offer stable prices over the long term because they are insulated from the prices swings of the fossil fuel markets. If included as a reasonable share in the energy portfolio, long-term contracts for renewable energy will serve as a hedge against the risks posed by the growing dependence on

natural gas for our region's power plants. If LSEs enter in to prudently designed long term contracts for renewable energy, there is not reason to deny the recovery of those costs through rates.

To be built, renewable power plants require long term contracts to obtain financing. Fortunately, such arrangements offer significant benefits to consumers as well. There are several examples that demonstrate the significant savings that long-term contracts would provide. First, the Mass Green Power Partnership run by the MRET showed that long-term RECs contracts can be had at prices significant below the spot market price and the ACP. Second, the long-term power sale between Berkshire Power and the municipal utilities demonstrated that renewable sources can sell their power at prices below the going price for electricity.

In a theoretical example, UCS calculated what the REC price in a 10-year contract would have to be in order to break even with the \$54 per MWh ACP payment. We found that a REC buyer who enters into a long term contract at \$31 per MWh is paying the same (in net present value) as a electricity provider who pays the ACP for three years and a floor price of \$15 per MWh for the other 7 years. This example demonstrates that long terms contracts, which ensure price stability and construction of new renewable facilities, are a better bet than paying the ACP and waiting for the spot market price to possibly fall to some low amount.

In fact, RPS programs around the country, including CT, NY, and probably in RI include some form of long-term contract mechanism. If MA does not include a similar approach, consumers in our state will lose out in the competition for the best values in the renewable market. UCS is equally supportive of the approaches in HB 3329 and 3330, and we believe that they both deserve the committee's attention. A central procurement authority much like the one in HB 3330 is at the early stages of implementation in New York. They are learning valuable lessons as we speak, and we encourage the legislature to closely examine the advantages and lessons this approach offers as you move forward.

Specifically, a central procurement mechanism could replace entirely or in part the role of electricity providers in the procurement of RECs. The Authority would buy RECs through long-term contracts with renewable generators using a competitive bidding process. Then Authority would then "sell" the RECs on an annual basis to the load serving entities in amounts that match their RPS compliance obligation. The Authority could also recover its expenses through a small service fee. Such an approach offers the advantages of economies of scale, and results in every consumer in MA paying the same for RPS compliance, regardless of where they live.

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Regarding HB3272: Please Oppose.

HB 3292 repeals the legislation creating the ratepayer-supported Renewable Energy Trust and Energy Efficiency Programs, collectively known as the System Benefit Charges. These programs are valuable to residents and businesses of the Commonwealth for their many benefits: cleaner air, lower energy bills (though they do marginally raise rates, the programs are widely held to be cost-effective and to result in lower total bills), energy security and independence, and economic growth and development.

Sincerely,

Deborah Donovan

Union of Concerned Scientists