



## Connecticut General Assembly Energy and Technology Committee

Public Hearing – March 4, 2021

Vistra Energy Corp. (“Vistra”) submits this written testimony in opposition to Raised House Bill 6526 – An Act Concerning Electric Suppliers.

Chairman Needleman, Chairman Arconti, and Distinguished Committee Members,

Vistra is a leading, Fortune 275 integrated retail electricity and power generation company, providing essential resources for customers, commerce, and communities. Vistra combines an innovative, customer-centric approach to retail with safe, reliable, diverse, and efficient power generation.<sup>1</sup> Vistra is guided by four core principles: we do business the right way, we work as a team, we compete to win, and we care about our stakeholders, including our customers, our communities where we work and live, our employees, and our investors.

It is because of these principles that Vistra is commenting on Raised Bill 6526. We agree with the authors that strong customer protections and enforcement are vital to a functioning competitive market. Vistra believes the policy goals of HB 6526 are laudable and Vistra looks forward to working with the legislature, regulators and other stakeholders to improve and strengthen Connecticut’s competitive electricity market. However, Vistra believes in our customers. They are knowledgeable about what matters to them. They prefer to have a choice in their electric service, and each customer is an individual and assesses value and retail product offerings differently. As such, Vistra hereby submits this testimony in opposition to Raised Bill No. 6526.

Competitive markets naturally ensure that competitors focus on the customer experience. Those companies who are unable to provide value to their customers or treat their customers like commodities instead of valued partners are appropriately forced out of the market through market dynamics. Vistra believes that customers should be protected against bad actors and that companies should be transparent on contract and offer terms. As such, Vistra believes that

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<sup>1</sup> Vistra products and services to market in 20 states and the District of Columbia, including six of the seven competitive wholesale markets in the U.S. and markets in Canada and Japan, as well. Serving nearly 5 million residential, commercial, and industrial retail customers with electricity and natural gas, Vistra is the largest competitive residential electricity provider in the country and offers over 50 renewable energy plans. The company is also the largest competitive power generator in the U.S. with a capacity of approximately 39,000 megawatts powered by a diverse portfolio, including natural gas, nuclear, solar, and battery energy storage facilities. In addition, the company is a large purchaser of wind power. The company is currently constructing a 400-MW/1,600-MWh battery energy storage system in Moss Landing, California, which will be the largest of its kind in the world when it comes online.

protections must balance statutory or regulatory restrictions against viable business practices that are provided in good faith that are essential to provide value and innovation to consumers, while still enabling a sustainable business.

Vistra believes we struck that balance in Raised Bill 5225 last session. While the bill was not perfect, it provided the right balance between customer protections, customer responsibilities, and sustainable business practices negotiated between retail suppliers, PURA, and the legislature.<sup>2</sup> Therefore, it is surprising to Vistra that the hard work, done in good faith, amongst the stakeholders on previous consumer protections legislation has been discarded in the legislation now before you.

In particular, Raised Bill 6526 now includes language regarding auto renewals, that was not present in last session's legislation. While Vistra agrees that customers should be timely notified as the end of their contract approaches and that terms for new products or rollover products should be clearly spelled out for the customer, Vistra disagrees that autorenewal should no longer be an option for choice customers. While not explicitly stated in the legislation, it is assumed that if a customer does not provide affirmative explicit consent to the renewal contract terms, that they will be dropped to the default rate. We believe this provides a less than ideal customer experience, especially for customers who affirmatively chose previously to not be on the default service rate.

For example: under the proposed language, if a customer is seeking to support the environment and enrolls on a 100% green electricity plan through an electric supplier, they could be removed from that 100% green product and placed on the utility's default service rate, which is not 100% renewable, unless they affirmatively consent to a new contract. Additionally, a customer may be enrolled on a low-priced plan with an electric supplier but could be forced on to a higher priced default service rate at the conclusion of their electricity contract absent the ability of the electricity supplier to auto renew. It should be noted that there is nothing that prevents a customer from choosing to return to the default rate at the end of their term or to choose any other provider / offer in the market. And indeed, the customer may be satisfied with the rollover or renewal product offered and appreciate the fact that they do not have to take further time and energy to ensure continued electric supply. Additionally, many other industries provide auto-renewal service as a convenience and are not subject to the kinds of regulations proposed in this bill, including magazine subscriptions, cable/streaming entertainment subscriptions, and insurance, among others.

Lastly, Vistra believes the existing statutory and regulatory requirements on the provision of autorenewal services to electric consumers strikes the right balance between customer protection, customer responsibilities and business needs. Regardless of the reason a customer chooses to continue with a provider, Vistra believes that choice should firmly remain in the hands of the consumer and that as long as the customer is notified and provided with clear and

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<sup>2</sup> Vistra's written testimony on HB 5225 can be found [here](#).

transparent information on renewal / rollover products. The provisions in Raised Bill 6526 regarding auto-renewals are unnecessary and would lead to less than ideal customer experiences.

While the language in Raised Bill 6526 on early termination fees remains unchanged from last session, Vistra had expressed concerns about the language, though was willing to accept it in that instance due to the broader agreement on the legislation. We reiterate those concerns here, as while the elimination of termination fees is something that seems consumer friendly it fails to strike the proper balance between customer responsibility and customer protections. Competitive electric suppliers – like competitive suppliers in other industries such as telecommunications, hospitality, or cable – often make considerable financial outlays at the beginning of a contract to provide consumers price certainty for the contract term. If energy prices increase, the consumer and the supplier are protected. However, if a consumer, without just cause, decides to break their contract, then the supplier is left with the remaining financial outlay that had been made on behalf of the consumer in good faith, and the costs may not be recoverable. In these cases, a termination fee helps protect the supplier from adverse actions on the consumer's part (i.e., breaking a contract without cause) and enables the supplier to offer lower overall prices, longer contract terms, and provides more security and stability for the supplier and their customers.

Lastly, Raised Bill 6526, includes a new section, compared to Raised Bill 5225 of last session, revising Subsection (a) of section 16-245 of the general statutes. In particular, the revised language now adds to the statute:

*Public Utilities Regulatory Authority shall have the authority to condition an electric supplier's license and access to the systems and billing of the electric distribution companies on terms the authority determines to be just and reasonable, including, but not limited to, proof that the electric supplier's products are not overpriced or harmful to customers.*

While Vistra agrees that no product offered to consumers should be harmful, and indeed there are already consumer protection laws on the books protecting consumers from harmful products, and that licensed suppliers should demonstrate technical and managerial wherewithal before providing service, the inclusion of the license being predicated on pricing is not compatible with a competitive market. The key difference between a competitive market and the traditional electric market is the absence of rate-regulation. This new provision strikes at the heart of competition and substitutes the consumer's choice on what is considered an "overpriced" product in the market with a state agency's perception. This provision creates piecemeal statutes towards re-regulation and an increasingly ineffective hybrid market that does not guarantee the best outcomes for consumers.

Vistra understands that contract transparency, appropriate customer protections, strong enforcement and customer assistance programs are key to a functioning and vibrant

competitive electricity market. Vistra looks forward to partnering with the General Assembly, state agencies and other stakeholders to ensure that all consumers in the state can receive the benefits of the competitive market, that businesses participating in the market can succeed and bring economic benefits to the state all while balanced with the appropriate customer protections and assistance programs.

Thank you for the opportunity for Vistra to share our opposition on HB 6526.