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Press Release – Lawsuit Filed Against Connecticut for Budget Raids – Immediate Release 5/15/2018

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Efficiency For All (EFA) and Connecticut Fund for the Environment seek full restoration of clean energy and energy efficiency funds

Hartford, Conn. – Efficiency For All, (EFA) and several efficiency and clean energy businesses, ratepayer organizations, and Connecticut Fund for the Environment have filed a federal lawsuit to block the legislative raid of Connecticut’s clean energy and energy efficiency program funds and to prevent future raids of the funds.

Holland & Knight and Feiner Wolfson filed the complaint for the plaintiffs on Tuesday, May 15, in the U.S. District Court. Plaintiffs are Leticia Colon de Mejias; The Connecticut Fund for the Environment, Inc.; Fight the Hike; Energy Efficiencies Solutions, LLC; Best Home Performance of CT, LLC; Connecticut Citizen Action Group; New England Smart Energy Group, LLC; CT Weatherproof Insulation, LLC; Steven C. Osuch; Jonathan Casiano; and Bright Solutions, LLC.

Defendants are the Governor, the Treasurer, and the Comptroller of the State of Connecticut.

“It is never too late to do the right thing; therefore we are calling on the state of Connecticut to return the diverted ratepayer funds for the specific purposes of serving the ratepayer and meeting the state’s written climate, energy, and economic goals. The Time Is Now!” **said Leticia Colon de Mejias, CEO of Energy Efficiencies Solutions, Inc.**

Last year, Connecticut’s legislature directed the Defendants to divert \$175 million from the Conservation & Load Management, Regional Greenhouse Gas Initiative, and Clean Energy funds to the General Fund to fill a budget gap over two years. Much of the funding is raised from a small charge on state electric bills, paid by ratepayers to their utility in return for specific services to be provided. The legislature voted last week to restore \$10 million of the Conservation & Load Management fund in fiscal year 2019, leaving a gap of \$165 million in unlawfully seized ratepayer funds.

The Plaintiffs argue that using the funding for other than its intended purpose is a breach of the contracts clause of the United States Constitution, and also functions as an illegal tax on tax-exempt organizations—such as nonprofits that are ratepayers. We are requesting that the court declare the funding sweep unconstitutional and thus null and void, and issue an injunction forbidding the State from sweeping the funds.

“Conventional wisdom is that the General Assembly can change priorities and reallocate tax revenue with the stroke of the legislative pen,” **said Attorney Stephen J. Humes, a partner at Holland & Knight and one of the lawyers leading the litigation.** “But this time is different and lawmakers went too far. We all should be worried when the State uses its extraordinary powers and literally takes and diverts funds held in private bank accounts of utilities to subsidize the General Fund coffers.”

“If this raid is not stopped, it will add to the hundreds of millions that state lawmakers have quietly taken from people who pay a UI or Eversource electric bill over the past 10-plus years,” **said Mike Trahan, executive director of Solar Connecticut.** “That money was supposed to be returned back to ratepayers in the form of low cost clean energy and energy efficiency products and services. Instead, state lawmakers took those hundreds of millions of dollars and used it to balance state budgets when they couldn’t balance the budget with their own funds.”

Stephanie Weiner, CEO and founder of New England Smart Energy Group, LLC, said, “We are now seeing the real life fall-out of this misguided, irresponsible decision by the state to divert funds that wasn’t theirs to take; we are not only losing valuable, skilled technicians but we are losing entire companies. If these funds are not restored in the very near future we will see a once thriving & growing Connecticut industry, that actually helped all the residents of Connecticut save money on their energy bills, disappear forever.”

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Additional businesses and organizations added:

“The state must ensure equal access to cost effective energy efficiency demand reduction programs, energy savings, and renewable energy. The ratepayer funds were diverted into the general tax fund resulting in an illegal tax on non-profits, schools, churches, and under-represented low-income and moderate-income working families which are being turned away from services they have paid for on their energy bills. This raid has resulted in economic harm and will further impact the areas of human health, building safety, climate change mitigation, air and water pollution, job losses, and \$30 million dollars in ISO-NE fees to ratepayers in Connecticut. Our state has the responsibility to look out for the best interest of our health, our economy and our workforce. These funds were collected through a legislative order for the specific purposes of stabilizing our energy grid, lowering the cost of energy for all people, and mitigating climate change and pollution which is generated through electricity generation and the heating and cooling of Connecticut homes and businesses. The state has a legislative responsibility to uphold

the CES and the Conservation and Load Management plan which these funds were legislated to directly support. We cannot meet our energy, economic, and climate goals without the resources to fund them. Legislators have acknowledged that the diversion was short-sighted and created economic harm, yet at this moment of a \$2 billion dollar surplus, they made little to no effort to amend the states plan to support its written and legislative energy reduction goals in 2018 and 2019.”

– **Kyle Ellsworth, Director of Community Relations and Government Affairs, Efficiency For All**

“Connecticut’s budget woes partially reflect a broader economic crisis that continues to hit working families the hardest, as the state suffers from a deficit in good jobs. At the same time, we face a looming climate crisis that has already brought more severe storms and major flooding to coastal communities. Fortunately, these two crises have the same solution: we need to put people to work protecting the climate. Our energy efficiency programs do exactly that: they help struggling communities by creating new local jobs, they grow our state’s economy and tax base, and they move us toward a clean energy future that protects the climate for our grandchildren. Creating a new energy tax by diverting ratepayer funds was a short-sighted decision with immediate and long-term negative impacts on consumers and workers. The General Assembly needs to restore all funding for these critical programs.”

– **John Humphries, organizer for the CT Roundtable on Climate and Jobs; and a member of the Governor’s Council on Climate Change**

“A constant refrain from policy makers and officials of all stripes is: We want jobs, economic growth, a better business climate, a reduction in our high energy costs, a reduction in harmful emissions, help for the underserved, etc. Then we go ahead and take money from funds which are delivering big time on what we just said we want. I don’t get it.”

– **Andy Bauer, Portland Clean Energy Task Force**

“There is no wiser way to spend money than on efficiency, as we transition to a clean energy economy. It’s the cheapest way to bring about change. In addition to direct savings, using less heat and electricity in CT homes and businesses will mean that ratepayers have to pay for fewer new transmission lines, gas pipelines, and substations in the future. Spending a little now will lead to spending a lot less for many years to come.”

— **Peter Millman, Eastern CT Green Action**

“As a future Engineer and the new voting generation of this state, I believe that we all deserve the chance to help our planet. With lower consumption appliances and light-bulbs and actions to promote energy savings, the Energy Efficiency funds not only reduce the cost of energy for the homeowner but they help in making the planet cleaner.”

— **Lariab Afzal, engineering student, University of Connecticut**

“Every ratepayer contributes to the Energy Efficiency and Clean Energy Funds monthly and all of us are supposed to benefit through lower energy bills, cleaner air, a more reliable energy system, and reductions in climate changing pollution. When the governor accepted the bipartisan budget that improperly raided these funds, everyone involved violated their responsibility to the people of Connecticut, the promises made by our government, and their moral duty to address climate change. Until these funds are restored, how can Connecticut residents trust these elected officials?”

— **Ben Martin, 350CT**

“It’s time to return the funds that were raided from the Energy Efficiency Fund. From the onset of this directive our customers have suffered the fallout, in particular those that heat with oil and propane. In addition the companies providing the service have seen a drastic reduction in the ability to maintain its workforce. We need those funds returned so that we can provide the services that were meant to help Connecticut achieve its goal on the energy conservation front. We need to be able to provide all ratepayers equal access and the only way to achieve that is by having the funds that were raided returned and the diversion of those funds repealed.”

— **Jeff Gerber, Homestead Fuel**

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