

Committee Name:

Senate Select Committee – Job Creation (SSC–JC)

Appointments

03hr_SSC–JC_Appt_pt00

Committee Hearings

03hr_SSC–JC_CH_pt00

Committee Reports

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Clearinghouse Rules

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Executive Sessions

03hr_SSC–JC_ES_pt00

Hearing Records

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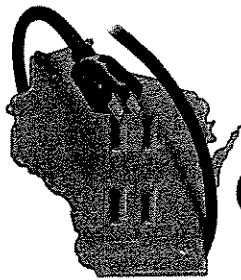
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Misc.

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Record of Committee Proceedings

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Customers First!

Plugging Wisconsin In

TO: Members of the Senate and Assembly Select Committees on Job Creation

FROM: Customers First! Coalition

DATE: November 25, 2003

RE: Customers First!'s Opposition to the Public Benefits Provision in the Job Creation Act of 2003 (SB 313 and AB 655)

The Job Creation Act of 2003 includes a provision that would allow utilities to retain Public Benefits funds to run their own energy conservation programs for commercial, industrial and agricultural customers. This provision is a familiar proposal which has failed in the past, including by Governor McCallum's veto of similar legislation in the 2002 budget repair bill.

Customers First! opposes including this initiative in the Job Creation Act for the following reasons:

- **Sound energy policy is best developed through a consensus building process.** Wisconsin has a tradition of developing state energy policy through a bipartisan, consensus process, achieving legislation through stakeholder input. Recently, the Senate and Assembly passed SB 300/AB 632, legislation to streamline the permitting process for electric generation and transmission projects in the state. This bill passed by a wide margin, reflecting the months of work by legislators and the governor's office to seek stakeholder input and develop reasonable compromises. By contrast, the Public Benefits provision included in the Job Creation Act is not the product of a bipartisan consensus process.
- **Give the Governor's Task Force on Energy Conservation and Renewables time to develop a comprehensive program.** Governor Doyle recently appointed a task force to review the Public Benefits program and state policy on energy conservation and renewables. This bipartisan effort includes, among others, chairs of both the Senate and Assembly Energy and Utilities Committees (Senator Cowles and Representative Jensen) and members of the Senate and Assembly Natural Resources Committees (Senator Risser and Representative Black). Legislation now, as this task force is just beginning its discussions, would be premature.
- **Further diversions of funds from Public Benefits would significantly erode the program's effectiveness.** Over \$47 million has already been diverted from Public Benefits in the recently enacted state budget. This amounts to over one-third of the program's funding. Any further reductions, either through budget diversions or permitting utilities to keep energy conservation funds, would significantly impact the program's effectiveness.

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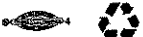
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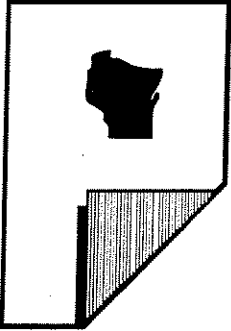
www.customersfirst.org



- **This provision is an extension of a free pass for Alliant Energy.** When Public Benefits was created in 2000, Alliant Energy lobbied heavily for an exemption to protect its existing energy conservation program for its industrial customers known as “Shared Savings.” Alliant was granted a transitional period until January 2003 at which time the company was required to contribute its full amount to Public Benefits. This provision is another attempt by Alliant to avoid contributing its state-mandated share to the Public Benefits program.
- **Alliant’s Shared Savings program benefits shareholders more than ratepayers.** Under Shared Savings, Alliant loans funds to selected customers to upgrade equipment and machinery under the guise of increased energy efficiency. However, customers are asked to pay back the loans over a five-year period at *no interest*, covering only a small administrative fee of 3% in addition to re-paying the loan principal. Alliant then seeks recovery for this loan program through rates collected from all its customers. Essentially, all ratepayers are covering the capital costs for cheap loans to a select few. Further, since Alliant can recover program costs in rates, including even defaulted loans under an escrow accounting procedure, there is little risk to shareholders. Ultimately, this program is a windfall to Alliant’s shareholders at the expense of its ratepayers.
- **Alliant has tried and failed to pass this measure before.** Twice Alliant has supported similar legislation, including in the 2002 budget repair bill. Then Governor McCallum vetoed a similar measure saying, “...I object to the diversion of funds from the state program. This veto will ensure continuity in conservation, energy efficiency and economic development projects in the public benefits program.” (Veto Message, veto item #46)
- **This legislation is unneeded.** Reliability 2000 includes a provision that permits utilities to obtain rate recovery for energy conservation spending above the funds transferred to Public Benefits. In its current rate case before the Public Service Commission, Alliant is seeking recovery of nearly \$10 million for additional commercial and industrial energy efficiency services beyond what it will contribute to Public Benefits.

WISCONSIN PAPER COUNCIL

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www.wipapercouncil.org



Comments of the

Wisconsin Paper Council

regarding

Assembly Bill 655 and Senate Bill 313

**Northcentral Technical College
Wausau, Wisconsin
December 3, 2003**

- The Wisconsin Paper Council strongly supports regulatory streamlining efforts, particularly those parts of AB 655 and SB 313 that relate to air quality regulations.
- Before commenting on the need for regulatory streamlining, we want to make a couple of process-related comments. First, we urge the Legislature to make regulatory streamlining an ongoing priority – this cannot be a one-time effort. We also urge the Legislature to continue to work cooperatively with the Governor and regulatory agencies – most of the streamlining that must take place needs to be implemented and supported by the regulators.
- Second, we want to make one thing very clear – we are not advocating any actions that would threaten the environment; we are advocating streamlining the processes by which environmental standards are implemented. Wisconsin's paper industry has a track record of voluntarily operating beyond compliance requirements and we intend to maintain that record.
- Regarding the need for regulatory streamlining, there is much talk about creating or recruiting high paying jobs in Wisconsin. The fact of the matter is that we have high paying jobs – they are in the paper industry and we need to keep them. Labor statistics show papermakers to be the highest paid manufacturing workers in the state, earning \$49,000 annually.

- Wisconsin is the #1 papermaking state in the nation, a title we have held for more than 50 years. However, the paper industry in Wisconsin and the rest of the country is facing significant economic challenges. Many of these challenges relate to fundamental economic changes – global economic conditions, excess production capacity, industry consolidation and globalization, foreign competition, and other factors.
- Companies are meeting these challenges with a variety of strategies. But for the foreseeable future the dominant strategies will be cost control and effective use of limited capital resources. Government regulation affects both.
- There will always be a cost associated with regulations intended to meet environmental, worker safety, and other worthy goals. This is not the issue. The issue is meeting these goals as efficiently as possible. In this regard Wisconsin does not fair well. Stories of additional costs imposed on Wisconsin companies by slow processing, excessive compliance requirements, or inflexibility are common. You will hear another in a few minutes. Just as Wisconsin papermakers seek to be the high quality, low cost producers, Wisconsin government must seek to become the high quality, low cost regulator.
- In the current economic climate, financial resources are limited. Individual mills within corporations routinely compete for needed resources. Investment decisions can, and often do, come down to factors such as how long it will take to get a permit – or even if a permit is needed, the cost of regulation, and even the attitude of regulators – is a proposed project viewed as an opportunity or a threat. We have been advised by more than one company that obtaining needed investments in Wisconsin is very difficult because of the regulatory climate. State government needs to warm up the regulatory climate to attract investment.
- The bills contain many air quality-related changes and call for the evaluation of additional streamlining changes. We want to highlight a few of particular interest to the paper industry.
 - The bills call for adopting recent federal changes to new source permitting rules. We are already working with DNR on rule changes that would eliminate the costly regulation of phantom emissions under the current rules. Some neighboring states already have these new rules in place. The bottom line is that these rule changes get in place as quickly as possible.

- The bills call for DNR to evaluate streamlining measures, like changing to a single, consolidated air permitting system. This type of system, in place in Minnesota and several other states, would save significant resources, both for companies and the DNR. We are already discussing how to structure such a system with agency staff and hope that a proposal can be developed before the end of the legislative session.
- The bills contain some permit flexibility provisions. One that is not in the bills currently, but we are hopeful will be added, would give DNR the authority to allow a company to begin construction of a project prior to a permit being issued. This is authority that DNR wants and would be particularly helpful in avoiding weather-related delays.
- Finally, the bills clarify current statutory language relating to the ability of a company to legally challenge individual permit conditions while allowing project construction to begin. This would be a very pro-development change, while maintaining environmental safeguards.

NSR Public Comments – Wausau, WI – 12/3/03

My name is John Piotrowski and I am the Environmental Manager at Packaging Corporation of America's (PCA) pulp and paper mill in Tomahawk, WI. I am here to support SB 313 and AB 655, particularly the air quality-related provisions that Ed Wilusz referred to.


I would like to provide a specific example that illustrates the business disincentives caused by the regulatory shortcomings of Wisconsin's current New Source Review (NSR) rules.

During 2003, PCA sought an air construction permit for a "green energy" project involving the collection of biogas that results from the biological treatment of wastewater at our mill. Extensive testing and analysis during 2001 and 2002 determined that the amount of recoverable biogas would be sufficient to displace all of the natural gas combusted in one of our industrial steam boilers.

In fact, the amount of bioenergy recovered by this project is sufficient to satisfy the annual heating demand of 300 northern Wisconsin households. According to the Department of Administration's Focus on Energy Office, PCA's biogas project would recover more "green energy" than the combined total of all other proposed "green energy" projects in Wisconsin. Additionally, the project will remove over 130,000 tons of naturally occurring greenhouse gases from the environment. The project offers indisputable environmental and economic benefits.

In order to accommodate biogas combustion in our industrial boiler, the existing natural gas burner had to be replaced with a biogas burner thus subjecting the project to NSR rules.

Wisconsin's current NSR rule required PCA to compare the boiler's past actual emissions to its potential emissions – the maximum emissions assuming continuous operation for one year – and determine if the difference exceeds a regulatory permitting threshold, referred to as the significance threshold (in this case 40 tons/year of nitrogen oxides). In the event the significance threshold is exceeded, the installation of additional pollution control equipment would be required. As an alternative, PCA could choose to limit the use of the boiler to keep nitrogen oxide emissions below the significance level.

 Because PCA has historically operated the boiler in question at about 15% of capacity, the actual-to-potential emissions calculation determined that the proposed project would theoretically increase emissions by 98 tons, which exceeds the 40-ton significance threshold. In reality, however, actual emissions resulting from the combustion of biogas will be 19 tons or approximately one-half the significance threshold.

In order to comply with existing NSR rules and avoid unacceptable operating constraints, PCA is installing pollution control equipment at a cost of \$250,000 in order to control 19 tons of actual nitrogen oxide emissions and 79 tons of non-existent potential nitrogen oxide emissions. In principle, PCA does not object to installing pollution controls that result in substantive 'real world' emission reductions. However, the NSR rule currently used in Wisconsin requires companies to spend, in our case, hundreds of thousands of dollars in order to remove phantom emissions from the environment. This situation is so onerous that PCA seriously contemplated abandoning the biogas project.

Here is an analogy that illustrates our objections with current NSR language.

Suppose I earn \$40,000/yr at my current job and receive a promotion that pays \$45,000/yr. If the Wisconsin tax code operated under current NSR principles, my income tax might be calculated as follows:

My past actual income was \$40,000. My 'potential-to-earn' income would be \$189,500, because a NSR type of tax code would assume that I could work 24 hours a day, 7 days a week and 365 days per year at my new pay rate. Due to the substantial difference between my past actual and future potential income, I would be taxed on \$189,500 of potential income instead of \$45,000 of actual income. Aside from some officials in the Department of Revenue, I doubt that few wage earners in Wisconsin would support this sort of tax code structure.

Our biogas project collided with another legal barrier that Ed referred to and that should be fixed in a later version of the bill. Under current Wisconsin law (s. 285.60 Stats.), an applicant for an air construction permit is not allowed to turn so much as a shovel full of dirt until a 30-day public comment period on the proposed permit has elapsed.

PCA's proposed biogas construction permit was released for public comment in late September. By law, the project was on hold until late October to

accommodate the public comment period before we could dig a ½ mile long trench in order to install an underground biogas delivery pipe. Due to deteriorating weather conditions that predictably occur in northern Wisconsin in late autumn, our contractor cautioned us that he could not guarantee that the pipeline could be installed at such a late date. Fortunately, the weather was marginally cooperative and our contractor sufficiently creative to allow for late season installation. Without good luck and creativity, the state's largest green energy project would have been delayed another six months.

In PCA's opinion, it is incumbent upon the State to allow the regulated community the flexibility to proceed, at their own risk, with earthwork and other related activities that do not modify the actual emissions source in order to accommodate the reality of Wisconsin's relatively limited construction season and preclude expensive construction delays. This recommendation is not without precedent as other states in the upper Midwest allow their businesses (and our competitors) this sort of flexibility.

In conclusion, we urge the legislature to pass SB 313 and AB 655 in order to advance NSR reform in Wisconsin. NSR reform is a positive step that ensures continued protection of Wisconsin's air quality while simultaneously providing the regulated community with the assurance that capital deployed for environmental protection achieves reductions in actual, as opposed to theoretical, emissions.

We also recommend that the legislature modify s. 285.60 Stats. in a manner that recognizes the constraints imposed by Wisconsin's climate and allows for limited pre-permit construction flexibility.

Thank you for the opportunity to offer these comments.

John Piotrowski
Packaging Corporation of America
N9090 County Road E
Tomahawk, WI 54487
715-453-2131 x349

Senate Bill 313 / Assembly Bill 655 Testimony

December 3, 2003

My name is Bruce Ridley.

I am the plant manager for Packaging Corporation of America in Tomahawk.

We produce medium containerboard on 3 paper machines using virgin hardwood fiber and recycled box clippings.

The first machine was installed in 1920, the second in 1929, the third in 1955 and the No.4 machine was installed in 1978 while the No.1 machine was shut down.

We employ about 450 people in a town of 3600 and a county of 30,000. Our payroll is about \$33 million. Our wood purchases are about \$20 million, while we pay \$400,000 in property taxes. We donate \$50 – \$60,000.00 annually to charitable organizations and have given \$230,000.00 worth of employee incentives through the local Chamber of Commerce. We are an important piece of the local, county and state economy.

During the past seven years, the Tomahawk Mill has received 10 state and national environmental awards in recognition for improvements in air quality, water quality, recycling, hazardous waste reduction, environmental education and process innovation.

Why is Regulatory Reform so important to Packaging Corporation of America (PCA) here in Wisconsin?

The current state of the paper industry in Wisconsin has been well publicized lately and most everyone understands that continuing capital investments are the lifeblood of any manufacturer.

My mill competes globally for market share and we compete with other PCA facilities and possible acquisitions for capital.

PCA currently has 3 other primary mills, in Michigan, Tennessee and Georgia. We have 68 box plants all over the country, 3 of them in Wisconsin.

Wall Street, Boards of Directors and Company Officers are expected to have good returns all the time. Cyclical returns are not accepted any more. Long and short-term investments need to be accurate and timely. This requires even long term investments to be analyzed, engineered, constructed and put on line quicker than ever before.

In Wisconsin, there are several drawbacks that hamper me from delivering these results and thus attracting capital to Tomahawk. Some of these are:

- Environmental permitting timelines.

- In Wisconsin I may need a permit that other states do not require.
- In Wisconsin, there are no provisions for "at your own risk" project commitments to deal with the winter weather.
- I've canceled good projects for my business and the environment because of future potential emissions versus actual emissions. In this case the Tomahawk Mill is severely punished for operating well below our permit limits.

Regulatory Reform that is being considered here today along with the EPA's recommended changes, the positive actions already taking place in WDNR under Secretary Hassett's leadership and Governor Doyle's commitments to Grow Wisconsin are all needed to help secure the future of the Tomahawk Mill.

We are already one of the lowest cost producers of medium in North America, but our future depends on the actions we take now.

Regulatory Reform will not relax the standards. It will set the stage so that businesses can partner with the WDNR like we do with other business associates.

PCA at Tomahawk has demonstrated that we can do projects, invest capital, that is not only good for our business, but good for the environment as well.

John Piotrowski is here today as well and will give you some examples.

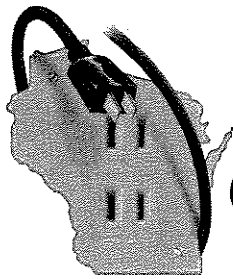
Regulatory Reform will give businesses and the WDNR a platform for win / win solutions.

Please pass the Regulatory Reform bill and help me keep papermaking in Wisconsin. We need to make Wisconsin better than a speculative state for investments. Help me keep high paying jobs in Wisconsin. If for no other reason, pass this bill for an improved environment.

I would also like to extend an invitation to any of you on the sub-committees to visit us at the Tomahawk Mill. We would be glad to give you a papermaking tour and a chance to meet some of our employees.

Thank-you.

Bruce A. Ridley
Plant Manager
Packaging Corporation of America
N9090 County Road E
Tomahawk, Wi.
54487 Tel. (715) 453-0499



Customers First!

Plugging Wisconsin In

DEC 08 2003

December 4, 2003



Senator Joe Leibham
State Capitol
Room 409 South
Madison, WI 53702

Re: Customers First! Coalition Response at the Wausau Hearing for the Jobs Creation Act (AB 655 / SB 313)

A Coalition

to Preserve

Wisconsin's

Reliable

and Affordable

Electricity

Dear Senator Leibham:

Thank you for the opportunity to present Customers First's views on the Public Benefits provision included in the Job Creation Act at the public hearing in Wausau on December 3rd. At that hearing, you asked me a question about the Reliability 2000 legislation; I would like to clarify my answer.

I misinterpreted your question and therefore gave you an incorrect answer. My response should have been that Reliability 2000 was indeed a part of the state budget bill (1999 Wisconsin Act 9). This compromise was reached after extensive discussions with stakeholders and agreement from all parties involved.

I apologize if my answer created confusion.

Sincerely,

Cathy Boies

cc: Senate and Assembly Members of Select Committees on Job Creation

Senator Roger Breske
Senator Russ Decker
Senator Julie Lassa
Representative Gregory Huber
Representative Louis Molepske
Bill Jordahl

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1. The first picture shows a stream relocation or straightening that is less than five hundred feet in length. Under the "Jobs Creation Act of 2003". This activity could be done under a general permit with no standard to protect fish and wildlife habitat, water quality and natural scenic beauty. There would be no opportunity for public notice or hearing until after the project was under construction.
2. The second picture shows a grading on the bank of a lake. Depending on the circumstances, this project would either be exempted from a permit or only require a general permit. In either case, the project would not have to meet standards protecting fish and wildlife habitat, water quality or natural scenic beauty. If totally exempted from a permit, there would be no public notice or hearing required at any time. If covered by a general permit, there would be not be a public notice or opportunity for public hearing until after the construction is underway.





Fourth, this legislation calls for significant changes to Chapter 227. Chief among these is establishing a cost benefit test for new administrative rules. Such a test is an inappropriate use of economic analysis especially when applied to health, environmental and natural resource regulations. Focusing on easily quantified costs to the exclusion of less easily monetized social benefits clearly biases the process against regulation. Authorizing the Department of Administration to block implementation of new rules it deems to have failed such a test begs the question of how the DOA develops the expertise to evaluate proposals from different agencies, what capacity they have to do so, and how the agencies will be provided with the money and personnel to carry out the analyses. Rather than improving the rulemaking process, this legislation appears designed to bring that process to a grinding halt.

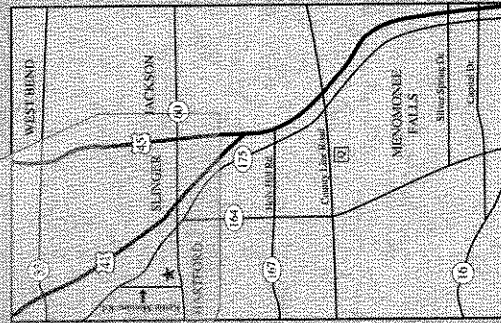
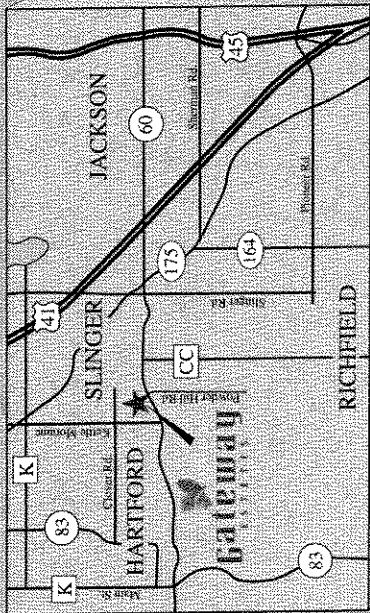
We should be clear about one thing: regulations are not written with an eye to stifling economic expansion. Regulations are generally required to correct for the inability of the market to capture the costs of damage to public health and the environment, and the failure of the market to prevent that damage in the first place. You should reject the rollbacks included in these bills and reject the damaging changes to the administrative rules process. To the extent there is any merit in specific sections of these bills, bring them forward as individual bills for proper review, comment, and consideration. The sooner you table this bill, the sooner you can do just that.

The mission of the Wisconsin League of Conservation Voters includes educating the voting public about key conservation issues. Our Scorecard Committee, composed of 15 conservation experts state-wide, assists in the production of our Conservation Scorecard presenting key votes on conservation and environmental legislation each year.

The *Wisconsin Conservation Briefing Book 2003-2004*, prepared in collaboration with more than 30 environmental and conservation groups, land trusts, government advisors and academics, serves as the basis for many policy positions taken by the Wisconsin League of Conservation Voters. This resource, which provides background information on conservation issues, detailed policy recommendations, and resource directories was delivered to your office earlier this year. For an additional copy of the *Briefing Book*, please contact the WLCV office or visit our website at www.conservationvoters.org.

If you have any questions about this bill or any other Wisconsin conservation issue, please do not hesitate to contact the WLCV office at (608) 850-4585.

Gateway ESTATES



Architectural Guidelines

- Separate plan and design review for each home
- Minimum home size: 1,800 sq/ft one story, 2,200 sq/ft two story (Lots 1-12)
- Minimum home size: 1,600 sq/ft one story, 2,000 sq/ft two story (Lots 13-41)
- Minimum roof pitch: 8/12 with dimensional shingles
- Side entry garage encouraged
- Minimum 2 windows on each elevation
- All natural, exterior or Heavy gauge aluminum
- Pre-designed mailbox and front yard light post required for each home
- Partial masonry on front elevation
- Landscaped entrances, boulevards and cul. de sac islands. All managed by subdivision Association of lot owners

Directions

- Hwy U.S. 45 North from Milwaukee
- Continue Northwest on U.S. 41 toward Ford du Lac
- Exit Hwy 60 West - 3 miles to Kettle Moraine Road
- Right (north) on Kettle Moraine 300 feet to entrance

Vicinity

- Three miles west of U.S. 41
- Seven miles west of Jackson
- Fifteen miles northwest of Menomonee Falls
- Three miles east of Downtown Hartford

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Gateway Estates offers an exclusive collection of 47 single-family homesites at the eastern "gateway" to the City of Hartford. Located off State Hwy. 60 just 3 minutes west of U.S. Highway 41, the site offers fast and convenient access to anywhere in Washington County, yet is surrounded by forever preserved green space. Directly across Hwy. 60 to the south, you will find the Pike Lake State Park containing miles of hiking and biking trails, camping areas and hundreds of feet of sandy beach front along the shores of Pike Lake. The northern portion of the site contains the Rubicon River conservation area, over five acres of environmentally sensitive (and reserved) exclusively for hiking and wildlife observation. The conservation area offers trails through rolling white pine forest, wetlands and terracing along the river, and is planned for expansion to the east and west as part of the Rubicon River protection corridor.

Gateway Estates has been designed to provide an exclusive residential neighborhood in the Hartford/Singer area that delivers the convenience and safety of full city services while taking best advantage of the site's environmental amenities. Generous lot sizes range from 12,000 S.F. to over 24,000 S.F., with most of the lots backing up to the Rubicon River conservation area, the wildlife pond or a mature tree line. Many lots also offer full or partial exposures permitting you to design rooms directly into your living space. Each lot is fully improved with sanitary sewer, municipal water and storm sewer from the city of Hartford, together with the underground gas, electric and communication lines from various utilities.

Schooling opportunities for your children present another unique attraction in Gateway Estates, as all families will be served by the highly regarded Singer School District. Finally, your investment in Gateway Estates will be preserved and enhanced in perpetuity by the Declaration of Covenants and Restrictions. This Declaration will require individual architectural review and approval of all home designs, together with formation of a self-governing Association of lot owners to oversee the maintenance and management of the plentiful common areas located throughout Gateway Estates.

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