



General Assembly

Substitute Bill No. 864

January Session, 2003

**AN ACT CONCERNING PERFORMANCE-BASED REGULATION OF
ELECTRIC DISTRIBUTION COMPANIES AND GAS COMPANIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 16-19kk of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (c) Notwithstanding the provisions of subdivision (4) of subsection
5 (a) of section 16-19e, in a proceeding under subsection (a) of section 16-
6 19 the department shall consider for an electric, gas, telephone or
7 water public service company, as defined in section 16-1, in
8 establishing the company's authorized return within the range of
9 reasonable rates of return: Quality, reliability and cost of service
10 provided by the company, the reduced or shifted demand for
11 electricity, gas or water resulting from the company's conservation and
12 load management programs approved by the department, the
13 company's successful implementation of programs supporting
14 economic development of the state and the company's success in
15 decreasing or constraining dependence on the use of petroleum or any
16 other criteria consistent with the state energy or other policy. [The
17 department may also establish other performance-based incentives
18 both related and unrelated to the company's rate of return designed to
19 implement the purposes of said sections 16-19e, 16-19aa, 16-19kk to 16-
20 19oo, inclusive, and 16a-49.]

21 Sec. 2. Section 16-19a of the general statutes is repealed and the
22 following is substituted in lieu thereof (*Effective October 1, 2003*):

23 (a) [(1)] The Department of Public Utility Control shall, at intervals
24 of not more than four years from the last previous general rate hearing
25 of each gas, electric and electric distribution company having more
26 than seventy-five thousand customers, conduct a complete review and
27 investigation of the financial and operating records of each such
28 company and hold a public hearing to determine whether the rates of
29 each such company are unreasonably discriminatory or more or less
30 than just, reasonable and adequate, or that the service furnished by
31 such company is inadequate to or in excess of public necessity and
32 convenience or that the rates do not conform to the principles and
33 guidelines set forth in section 16-19e. In making such determination,
34 the department shall consider the gross and net earnings of such
35 company since its last previous general rate hearing, its retained
36 earnings, its actual and proposed capital expenditures, its advertising
37 expenses, the dividends paid to its stockholders, the rate of return paid
38 on its preferred stock, bonds, debentures and other obligations, its
39 credit rating, and such other financial and operating information as the
40 department may deem pertinent.

41 [(2)] (b) The department may conduct a general rate hearing in
42 accordance with subsection (a) of section 16-19, in lieu of the periodic
43 review and investigation proceedings required under [subdivision (1)
44 of this] subsection (a) of this section.

45 [(b) In the proceeding required under subdivision (1) of subsection
46 (a) of this section, the department may approve performance-based
47 incentives to encourage a gas or electric company to operate efficiently
48 and provide high quality service at fair and reasonable prices.
49 Notwithstanding subsection (a) of this section, if the department
50 approves such performance-based incentives for a particular company,
51 the department shall include in such approval a framework for
52 periodic monitoring and review of the company's performance in
53 regard to criteria specified by the department, which shall include, but

54 not be limited to, the company's return on equity, reliability and
55 quality of service. The department's periodic monitoring and review
56 shall be used in lieu of the periodic review and investigation
57 proceedings required under subdivision (1) of subsection (a) of this
58 section. If the department determines in the periodic monitoring and
59 review that a more extensive review of company performance is
60 necessary, the department may institute a further proceeding in
61 accordance with the purposes of this chapter, including a complete
62 review and investigation described in subdivision (1) of subsection (a)
63 of this section.]

64 Sec. 3. Subsection (b) of section 16-19j of the general statutes is
65 repealed and the following is substituted in lieu thereof (*Effective*
66 *October 1, 2003*):

67 (b) Notwithstanding subsection (a) of this section, the authority
68 shall require a portion of the staff to be made a party to proceedings
69 relating to (1) a rate amendment proposed pursuant to section 16-19 by
70 a public service company having more than seventy-five thousand
71 customers, (2) the approval of a performance-based [incentives] form
72 of regulation pursuant to [subsection (b) of section 16-19a] section 4 of
73 this act, or (3) the approval of any alternative form of regulation
74 pursuant to section 16-247k, provided the authority shall not require a
75 portion of the staff to be made a party to any proceeding described in
76 this subsection if the authority issues a notice of its intent not to do so
77 in writing. The notice shall include the reasons for not requiring a
78 portion of the staff to be made a party. Upon petition of any party so
79 noticed, the authority shall require a portion of the staff to be made a
80 party.

81 Sec. 4. (NEW) (*Effective October 1, 2003*) (a) For purposes of this
82 section, (1) "performance-based form of regulation" means any form of
83 regulation other than the traditional cost of service regulation
84 including, but not limited to, any rate determination or rate plan that
85 includes a mechanism under which the earnings of the public service
86 company are shared between the company and its ratepayers in any

87 manner, and (2) "direct financial benefits" means benefits that include,
88 but are not limited to, bill reductions and the accelerated payment of
89 any deferred costs approved in a previous rate case.

90 (b) The Department of Public Utility Control, either (1) on its own
91 initiative during a general rate hearing for an electric distribution
92 company or a gas company conducted pursuant to section 16-19 of the
93 general statutes or subsection (b) of section 16-19a of the general
94 statutes, as amended by this act, provided no rate determination or
95 rate plan for such companies implemented by the department prior to
96 the effective date of this section shall be subject to this section, or (2)
97 upon application by an electric distribution company or a gas
98 company, may implement a performance-based form of regulation for
99 such company in accordance with this section.

100 (c) If, during the term of its performance-based rate determination
101 or rate plan, a public service company is involved in a merger, the
102 department shall reexamine such rate determination or rate plan to
103 determine whether it should remain in place for the duration of its
104 term. The department may, as it deems necessary, adjust or terminate
105 the rate determination or rate plan. Such adjustment may include, but
106 not be limited to, an adjustment in the earnings sharing mechanism, if
107 any, of the rate determination or rate plan.

108 (d) The department shall not implement a performance-based form
109 of regulation for any electric distribution or gas company unless (1) the
110 earnings sharing mechanism of the performance-based rate
111 determination or rate plan, if any, provides that ratepayers receive
112 direct financial benefits accurately reflecting not less than one-half of
113 all company earnings above the return on equity allowed by the
114 department at each level of such earnings, (2) such rate determination
115 or rate plan includes objective quality and reliability of service
116 requirements consistent with industry standards, as well as periodic
117 review and monitoring of such requirements by the department and
118 penalties for failing to maintain those requirements, which penalties
119 may include modification, suspension or termination of such rate

120 determination or rate plan or monetary fines, (3) such rate
121 determination or rate plan includes a maximum return on equity not
122 greater than fifty per cent above the authorized return on equity, and
123 (4) such rate determination or rate plan has a maximum term of not
124 greater than four years. The maximum return on equity calculated
125 pursuant to this section shall include all company revenues, including,
126 but not limited to, those directed to ratepayers under any earnings
127 sharing mechanism.

128 (e) If, during the term of its performance-based rate determination
129 or rate plan, a company has, for six consecutive months, earned a
130 return on equity that exceeds the maximum return determined under
131 subdivision (3) of subsection (d) of this section, the department shall
132 reexamine such rate determination or rate plan to determine whether it
133 should remain in place for the duration of its term. The department
134 may, as it deems necessary, adjust or terminate such rate
135 determination or rate plan.

136 (f) During the term of a performance-based rate determination or
137 rate plan pursuant to this section, neither subsection (d) of section 16-
138 19 of the general statutes nor subsection (g) of section 16-19 of the
139 general statutes shall apply to the subject company.

140 Sec. 5. (*Effective from passage*) The Department of Public Utility
141 Control, in consultation with the Office of Consumer Counsel, shall,
142 within available appropriations, develop a process to enable and
143 encourage ratepayers and community-based organizations to
144 participate in regulatory proceedings before the department. The
145 department shall implement such process not later than October 1,
146 2003, and shall notify the joint standing committee of the General
147 Assembly having cognizance of matters relating to public utilities of
148 such implementation.

This act shall take effect as follows:	
Section 1	October 1, 2003
Sec. 2	October 1, 2003

Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>from passage</i>

ET *Joint Favorable Subst.*