



General Assembly

January Session, 2003

Raised Bill No. 990

LCO No. 3422

Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING RESTORATION OF ROADWAYS BY PUBLIC SERVICE COMPANIES.

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

1 Section 1. Section 16-229 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Any public service company incorporated under the provisions
4 of the statutes or by special act for the purpose of transmitting or
5 distributing gas, water or electricity or for telephone purposes,
6 desiring to open or make any excavation in a portion of any public
7 highway for the carrying out of any purpose for which it may be
8 organized other than the placing or replacing of a pole or of a curb box,
9 shall [, if required by] apply to the authority having jurisdiction over
10 the maintenance of such highway [, make application to such
11 authority, which may, in writing, grant] for a permit for such opening
12 or excavation upon such terms and conditions as to the manner in
13 which such work shall be carried on as may be reasonable, including,
14 but not limited to, the restoration of the roadway to a condition equal
15 to that which existed prior to such opening or excavation. Such
16 authority shall not issue a permit pursuant to this section until the

17 public service company receives approval for the proposal from the
18 appropriate planning commission pursuant to section 8-24, as
19 amended by this act.

20 (b) Not later than ten years after the issuance of a permit in
21 accordance with this section, the authority that issued the permit may
22 issue an order requiring the public service company to make a
23 payment to the authority for any reduction in the useful life of the
24 roadway, as determined by the authority. A company that is aggrieved
25 by such order may, within thirty days of the issuance of such order,
26 appeal to the superior court for the judicial district in which the subject
27 public highway is located.

28 Sec. 2. Section 16-231 of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective October 1, 2003*):

30 (a) Any [such] public service company aggrieved by the neglect or
31 refusal of the authority having such jurisdiction to grant [such] a
32 permit pursuant to section 16-229, as amended by this act, or by the
33 terms and conditions [therein] imposed by such permit, may appeal to
34 the Department of Public Utility Control, which may, upon giving
35 reasonable notice of such appeal and of the time and place where it
36 will be heard, determine whether such permit ought to be granted, or
37 such terms and conditions altered, and may, subject to such right of
38 appeal to the Superior Court as provided in the case of other orders,
39 authorizations and decisions of the department, grant such permit in
40 writing upon such terms and conditions as to the carrying on of such
41 work as it finds just and reasonable.

42 (b) Any public service company aggrieved by a decision of a
43 planning authority pursuant to subdivision (5) of section 8-24, as
44 amended by this act, may appeal to the Department of Public Utility
45 Control, which may, upon giving reasonable notice of such appeal and
46 of the time and place where it will be heard, determine whether the
47 proposed opening or excavation of a portion of a public highway
48 should be approved. A company that is aggrieved by such

49 determination may obtain review of such determination in the
50 Superior Court by filing an appeal in accordance with the provisions of
51 chapter 54.

52 Sec. 3. Section 8-24 of the general statutes is repealed and the
53 following is substituted in lieu thereof (*Effective October 1, 2003*):

54 No municipal agency or legislative body shall (1) locate, accept,
55 abandon, widen, narrow or extend any street, bridge, parkway or
56 other public way, (2) locate, relocate, substantially improve, acquire
57 land for, abandon, sell or lease any airport, park, playground, school or
58 other municipally owned property or public building, (3) locate or
59 extend any public housing, development, redevelopment or urban
60 renewal project, [or] (4) locate or extend public utilities and terminals
61 for water, sewerage, light, power, transit and other purposes, or (5)
62 issue a permit for the approval of the opening or excavation of a
63 portion of a public highway pursuant to section 16-229, as amended by
64 this act, until the proposal to take such action has been referred by
65 such agency or body to the commission for a report or until the
66 proposal to take such action has been referred by a public service
67 company to the commission for a report. Notwithstanding the
68 provisions of this section, a municipality may take final action
69 approving an appropriation for any proposal prior to the approval of
70 the proposal by the commission pursuant to this section. The failure of
71 the commission to report within thirty-five days after the date of
72 official submission of the proposal to it for a report shall be taken as
73 approval of the proposal. In the case of the disapproval of the proposal
74 by the commission the reasons therefor shall be recorded and
75 transmitted to the legislative body of the municipality. A proposal
76 disapproved by the commission shall be adopted by the municipality
77 or, in the case of disapproval of a proposal by the commission
78 subsequent to final action by a municipality approving an
79 appropriation for the proposal and the method of financing of such
80 appropriation, such final action shall be effective, only after the
81 subsequent approval of the proposal by (A) a two-thirds vote of the

82 town council where one exists, or a majority vote of those present and
83 voting in an annual or special town meeting, or (B) a two-thirds vote of
84 the representative town meeting or city council or the warden and
85 burgesses, as the case may be. The provisions of this section shall not
86 apply to maintenance or repair of existing property, public ways or
87 buildings. Notwithstanding the provisions of this chapter, any appeal
88 by a public service company that is aggrieved by a decision issued
89 pursuant to subdivision (5) of this section shall be taken in accordance
90 with section 16-231, as amended by this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>

Statement of Purpose:

To require public service companies, after opening or excavating a portion of a public highway for the purpose of transmitting or distributing gas, water or electricity or for telephone purposes, to restore such highway to a condition equal to that which existed prior to such opening or excavation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]