



General Assembly

January Session, 2005

***Raised Bill No. 995***

LCO No. 3154

\*03154\_\_\_\_\_ET\_\*

Referred to Committee on Energy and Technology

Introduced by:  
(ET)

***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. Section 16-19kk of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The General Assembly finds that if the earnings of electric, gas,  
4 telephone and water public service companies, as defined in section  
5 16-1, are adversely affected by such companies' conservation and load  
6 management programs or other programs promoting the state's  
7 economic development, energy and other policy, those companies will  
8 have a disincentive to implement such programs. The General  
9 Assembly further finds that in order to further the implementation of  
10 such programs the earnings of electric, gas, telephone and water  
11 companies should be consistent with the principles and guidelines set  
12 forth in sections 16-19e, 16-19aa and 16-19kk to 16-19oo, inclusive, and  
13 16a-49 notwithstanding participation in conservation and load  
14 management programs and other programs authorized by the  
15 Department of Public Utility Control, promoting the state's economic  
16 development, energy and other policy.

17 (b) The department shall complete, on or before December 31, 1991,  
18 an investigation into the relationship between a company's volume of  
19 sales and its earnings. The department shall, on or before July 1, 1993,  
20 implement rate-making and other procedures and practices in order to  
21 encourage the implementation of conservation and load management  
22 programs and other programs authorized by the department  
23 promoting the state's economic development, energy and other policy.  
24 Such procedures to implement a modification or elimination of any  
25 direct relationship between the volume of sales and the earnings of  
26 electric, gas, telephone and water companies may include the adoption  
27 of a sales adjustment clause pursuant to subsection (i) of section 16-  
28 19b, or other adjustment clause similar thereto. The department's  
29 investigation shall include a review of its regulations and policies to  
30 identify any existing disincentives to the development and  
31 implementation of cost effective conservation and load management  
32 programs and other programs promoting the state's economic  
33 development, energy and other policy.

34 (c) Notwithstanding the provisions of subdivision (4) of subsection  
35 (a) of section 16-19e, in a proceeding under subsection (a) of section 16-  
36 19 the department shall consider for an electric, gas, telephone or  
37 water public service company, as defined in section 16-1, in  
38 establishing the company's authorized return within the range of  
39 reasonable rates of return: Quality, reliability and cost of service  
40 provided by the company, the reduced or shifted demand for  
41 electricity, gas or water resulting from the company's conservation and  
42 load management programs approved by the department, the  
43 company's successful implementation of programs supporting  
44 economic development of the state and the company's success in  
45 decreasing or constraining dependence on the use of petroleum or any  
46 other criteria consistent with the state energy or other policy. [The  
47 department may also establish other performance-based incentives  
48 both related and unrelated to the company's rate of return designed to  
49 implement the purposes of said sections 16-19e, 16-19aa, 16-19kk to 16-  
50 19oo, inclusive, and 16a-49.]

51 (d) In any proceeding before the department in which a company  
52 seeks beneficial rate treatment pursuant to this section, the Office of  
53 Consumer Counsel may retain independent experts to provide  
54 analysis, evaluation and testimony to address the issue of the  
55 appropriateness of such beneficial treatment under consideration in  
56 the proceeding, and all reasonable and proper expenses, to provide  
57 such analysis, evaluation and testimony, to a maximum of fifty  
58 thousand dollars per proceeding, shall be paid by the company and  
59 shall be proper rate-making expenses.

60 (e) The Department of Public Utility Control may adopt regulations,  
61 in accordance with the provisions of chapter 54, to carry out the  
62 purposes of this section.

63 Sec. 2. Section 16-19a of the general statutes is repealed and the  
64 following is substituted in lieu thereof (*Effective October 1, 2005*):

65 (a) [(1)] The Department of Public Utility Control shall, at intervals  
66 of not more than four years from the last previous general rate hearing  
67 of each gas, electric and electric distribution company having more  
68 than seventy-five thousand customers, conduct a complete review and  
69 investigation of the financial and operating records of each such  
70 company and hold a public hearing to determine whether the rates of  
71 each such company are unreasonably discriminatory or more or less  
72 than just, reasonable and adequate, or that the service furnished by  
73 such company is inadequate to or in excess of public necessity and  
74 convenience or that the rates do not conform to the principles and  
75 guidelines set forth in section 16-19e, except that such review and  
76 investigation shall not be required for any such company that is subject  
77 to a performance-based form of regulation pursuant to section 4 of this  
78 act. In making such determination, the department shall consider the  
79 gross and net earnings of such company since its last previous general  
80 rate hearing, its retained earnings, its actual and proposed capital  
81 expenditures, its advertising expenses, the dividends paid to its  
82 stockholders, the rate of return paid on its preferred stock, bonds,

83 debentures and other obligations, its credit rating, and such other  
84 financial and operating information as the department may deem  
85 pertinent.

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

90 [(b) In the proceeding required under subdivision (1) of subsection  
91 (a) of this section, the department may approve performance-based  
92 incentives to encourage a gas or electric company to operate efficiently  
93 and provide high quality service at fair and reasonable prices.  
94 Notwithstanding subsection (a) of this section, if the department  
95 approves such performance-based incentives for a particular company,  
96 the department shall include in such approval a framework for  
97 periodic monitoring and review of the company's performance in  
98 regard to criteria specified by the department, which shall include, but  
99 not be limited to, the company's return on equity, reliability and  
100 quality of service. The department's periodic monitoring and review  
101 shall be used in lieu of the periodic review and investigation  
102 proceedings required under subdivision (1) of subsection (a) of this  
103 section. If the department determines in the periodic monitoring and  
104 review that a more extensive review of company performance is  
105 necessary, the department may institute a further proceeding in  
106 accordance with the purposes of this chapter, including a complete  
107 review and investigation described in subdivision (1) of subsection (a)  
108 of this section.]

109 Sec. 3. Section 16-19j of the general statutes is repealed and the  
110 following is substituted in lieu thereof (*Effective October 1, 2005*):

111 (a) The Public Utilities Control Authority may require a portion of  
112 the staff of the department to be made a party to any proceeding.

113 (b) Notwithstanding subsection (a) of this section, the authority

114 shall require a portion of the staff to be made a party to proceedings  
115 relating to (1) a rate amendment proposed pursuant to section 16-19 by  
116 a public service company having more than seventy-five thousand  
117 customers, (2) the approval of performance-based [incentives] form of  
118 regulation pursuant to [subsection (b) of section 16-19a] section 4 of  
119 this act, or (3) the approval of any alternative form of regulation  
120 pursuant to section 16-247k, provided the authority shall not require a  
121 portion of the staff to be made a party to any proceeding described in  
122 this subsection if the authority issues a notice of its intent not to do so  
123 in writing. The notice shall include the reasons for not requiring a  
124 portion of the staff to be made a party. Upon petition of any party so  
125 noticed, the authority shall require a portion of the staff to be made a  
126 party.

127 (c) The provisions of section 4-181 shall apply to any proceeding in  
128 which a portion of department staff is made a party.

129 (d) The department staff assigned to participate as a party to any  
130 rate proceedings described in subdivision (1) of subsection (b) of this  
131 section shall review the proposed rate amendment filed by the  
132 company and shall file with the commissioners of the department  
133 proposed modifications of the rate amendment. Such modifications  
134 shall carry out the purposes of subsection (a) of section 16-19e and  
135 section 16a-35k. Such staff shall appear and participate in the  
136 proceedings in support of its proposed modifications and may employ  
137 outside consultants knowledgeable in the utility regulation field.

138 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) For purposes of this  
139 section, (1) "performance-based form of regulation" means any form of  
140 regulation other than the traditional cost of service regulation  
141 including, but not limited to, any rate plan that establishes rates in  
142 accordance with subsection (a) of section 16-19e of the general statutes  
143 and includes a mechanism under which the earnings of the public  
144 service company above the return on equity previously authorized by  
145 the Department of Public Utility Control are shared between the

146 company and its ratepayers in any manner, and (2) "direct financial  
147 benefits" means benefits that include, but are not limited to, bill  
148 reductions and the accelerated payment of any deferred costs  
149 approved in a previous rate case.

150 (b) The department may implement a performance-based form of  
151 regulation for an electric distribution company or a gas company in  
152 accordance with this section either (1) on its own initiative during a  
153 general rate hearing for an electric distribution company or a gas  
154 company conducted pursuant to section 16-19 of the general statutes or  
155 subsection (b) of section 16-19a of the general statutes, as amended by  
156 this act, provided no rate determination or rate plan for such  
157 companies implemented by the department before the effective date of  
158 this section shall be subject to this section, or (2) on application by an  
159 electric distribution company or a gas company.

160 (c) The department shall not implement a performance-based form  
161 of regulation for any electric distribution or gas company unless (1) the  
162 earnings sharing mechanism of the performance-based form of  
163 regulation, if any, provides that ratepayers receive direct financial  
164 benefits from not less than one-half of all company earnings above the  
165 return on equity allowed by the department, (2) such regulation  
166 includes objective quality and reliability of service requirements  
167 consistent with industry standards, as well as periodic review and  
168 monitoring of such requirements by the department and such financial  
169 or other measures as the department determines is appropriate if the  
170 company exceeds or fails to meet such requirements, (3) such  
171 regulation includes a maximum return on equity not greater than fifty  
172 per cent above the authorized return on equity, and (4) such regulation  
173 has a maximum term of not greater than five years.

174 (d) If, during the term of its performance-based form of regulation, a  
175 company has, for six consecutive months, earned a return on equity  
176 that exceeds the maximum return determined under subdivision (3) of  
177 subsection (c) of this section, the department shall reexamine such

178 regulation to determine whether it should remain in place for the  
179 duration of its term. The department may, as it considers necessary,  
180 adjust or terminate such regulation in accordance with the principles  
181 of subsection (a) of section 16-19e of the general statutes.

182 (e) During the term of a performance-based rate form of regulation  
183 pursuant to this section, subsection (d) of section 16-19 of the general  
184 statutes or subsection (g) of section 16-19 of the general statutes shall  
185 not apply to the subject company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	16-19kk
Sec. 2	<i>October 1, 2005</i>	16-19a
Sec. 3	<i>October 1, 2005</i>	16-19j
Sec. 4	<i>October 1, 2005</i>	New section

**Statement of Purpose:**

To provide guidelines to the Department of Public Utility Control for the implementation of a performance-based form of regulation for an electric distribution company or gas company.

*[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.]*