



Senate

General Assembly

File No. 31

February Session, 2006

Substitute Senate Bill No. 210

Senate, March 20, 2006

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT ESTABLISHING A CODE OF CONDUCT BETWEEN
NATURAL GAS DISTRIBUTION COMPANIES AND THEIR
AFFILIATES.***

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

1 Section 1. Subsection (a) of section 16-47 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2006*):

4 (a) As used in this section, and section 2 of this act, (1) "holding
5 company" means any corporation, association, partnership, trust or
6 similar organization, or person which, either alone or in conjunction
7 and pursuant to an arrangement or understanding with one or more
8 other corporations, associations, partnerships, trusts or similar
9 organizations, or persons, directly or indirectly, controls a gas, electric,
10 electric distribution, water, telephone or community antenna television
11 company, [As used in this section,] and (2) "control" means the
12 possession of the power to direct or cause the direction of the

13 management and policies of a gas, electric, electric distribution, water,
14 telephone or community antenna television company or a holding
15 company, whether through the ownership of its voting securities, the
16 ability to effect a change in the composition of its board of directors or
17 otherwise, provided, control shall not be deemed to arise solely from a
18 revocable proxy or consent given to a person in response to a public
19 proxy or consent solicitation made pursuant to and in accordance with
20 the applicable rules and regulations of the Securities Exchange Act of
21 1934 unless a participant in said solicitation has announced an
22 intention to effect a merger or consolidation with, reorganization, or
23 other business combination or extraordinary transaction involving the
24 gas, electric, electric distribution, water, telephone or community
25 antenna television company or the holding company. Control shall be
26 presumed to exist if a person directly or indirectly owns ten per cent or
27 more of the voting securities of a gas, electric, electric distribution,
28 water, telephone or community antenna television company or a
29 holding company, provided the department may determine, after
30 conducting a hearing, that said presumption of control has been
31 rebutted by a showing that such ownership does not in fact confer
32 control.

33 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) As used in this section,
34 "affiliate" means a person, as defined in section 16-1 of the 2006
35 supplement to the general statutes, or class of persons that, with a gas
36 company, as defined in said section 16-1, is under the control of the
37 same holding company, or a person or class of persons that the
38 Department of Public Utility Control determines to stand in such
39 relation to a gas company that there is liable to be an absence of arm's
40 length bargaining in transactions between them as to make it necessary
41 to protect ratepayers.

42 (b) The Department of Public Utility Control shall establish a code
43 of conduct that sets minimum standards for gas company transactions
44 with affiliates to achieve, at a minimum, the following goals:

45 (1) Provide rules for purchases or sales of goods or services between

46 a gas company and its affiliates requiring appropriate types of
47 contracts, including, but not limited to, contracts at cost or contracts at
48 market price;

49 (2) Provide rules limiting or prohibiting a gas company from
50 sharing or giving access to certain types of customer identifying or
51 commercially sensitive information to affiliates;

52 (3) Provide for a system of records and reporting for transactions
53 between a gas company and its affiliates;

54 (4) Establish standards to ensure that any payment by a gas
55 company to any affiliate or from any affiliate to a gas company is
56 appropriate and reasonable;

57 (5) Provide a standard for avoidance of conflict of interest between a
58 gas company and affiliates;

59 (6) Ensure that any such transactions shall not have an improper
60 and adverse impact on the costs or revenues of the gas company, on
61 the rates and charges paid by gas company customers or on the quality
62 of service provided by the gas company;

63 (7) Ensure that gas company ratepayers do not subsidize affiliate
64 operations;

65 (8) Ensure fair, appropriate and equitable standards for purchases,
66 sales, leases, asset transfers, and cost or profit-sharing transactions, or
67 any type of financing or encumbrance involving a gas company and its
68 affiliates; and

69 (9) Ensure that gas supply and distribution services are provided by
70 a gas company in an appropriate manner to affiliates and nonaffiliates
71 alike.

72 (c) In addition to the powers granted to the department in section
73 16-8c of the general statutes, the department shall have the authority to
74 summon witnesses from an affiliate with which a gas company has

75 had direct or indirect transactions, examine the affiliate under oath and
76 order production, inspection and audit of its books, records or any
77 type of information concerning any transaction that the department
78 has reason to believe could impact the costs and revenues of the
79 affiliated gas company. The department may also order such affiliate
80 to be joined as a party with such gas company to an investigative
81 proceeding pursuant to subsection (f) of this section.

82 (d) Each gas company shall submit to the department records and
83 such information as the department may require, at intervals
84 determined by the department and in such form as the department
85 may order regarding affiliate transactions.

86 (e) An affiliate having relations, transactions or dealings with a gas
87 company shall file any information regarding such relations,
88 transactions or dealings in such form as determined by the
89 department.

90 (f) The department may, upon its own motion or upon petition by
91 an interested party, investigate a gas company's compliance with the
92 code of conduct, and any such investigation shall be a contested case,
93 as defined in section 4-166 of the general statutes.

94 (g) The department may make orders to enforce the code of
95 conduct, including, but not limited to, cease and desist orders and may
96 levy civil penalties pursuant to section 16-41 of the 2006 supplement to
97 the general statutes against entities subject to the code of conduct.

98 (h) The code of conduct shall not prohibit communications
99 necessary to restore gas company service or to prevent or respond to
100 emergency conditions.

101 (i) Not later than November 1, 2007, the department shall adopt
102 regulations, in accordance with the provisions of chapter 54 of the
103 general statutes, to establish the code of conduct in accordance with
104 subsection (b) of this section, related accounting and reporting
105 requirements and procedures for gas company and affiliate

106 compliance with this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	16-47(a)
Sec. 2	<i>October 1, 2006</i>	New section

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Public Utility Control, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the Department of Public Utility Control (DPUC) to establish a code of conduct which would set standards for transactions between gas companies and their affiliates. It is anticipated that DPUC will be able to do this within existing resources.

The bill also gives DPUC investigative powers regarding certain transactions, powers to issue enforcement and cease and desist orders, and to impose civil penalties of up to \$10,000 per violation of the code. To the extent that the establishment of the new code could result in violations, this could result in a minimal revenue gain.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
sSB 210

***AN ACT ESTABLISHING A CODE OF CONDUCT BETWEEN
NATURAL GAS DISTRIBUTION COMPANIES AND THEIR
AFFILIATES.***

SUMMARY:

This bill requires the Department of Public Utility Control (DPUC) to establish a code of conduct setting standards for transactions between gas companies and their affiliates. It gives DPUC various investigative powers regarding affiliates and their transactions with gas companies. It allows DPUC to issue enforcement orders against entities subject to the code, including cease and desist orders. It can impose civil penalties of up to \$10,000 per violation of the code.

DPUC must adopt regulations by November 1, 2007 establishing the code of conduct and related accounting and reporting requirements and procedures.

EFFECTIVE DATE: October 1, 2006

AFFILIATES

The bill defines a gas company affiliate as an entity or class of entities that (1) is under the control of the holding company of a gas company or (2) DPUC determines to have a less than arm's length relationship with a gas company that makes it necessary to protect gas company ratepayers.

HOLDING COMPANY

By law, DPUC an entity must get DPUC approval to become the holding company of a Connecticut utility or to exercise control over a utility. The bill incorporates the definitions of "holding company" and "control" in its definition of a gas company affiliate. A holding

company is an entity that by itself or with others controls a utility. Control means to be able to direct the management of the utility or another holding company through its ownership of shares or to have the ability to change the utility's or holding company's board of directors. Generally, a holding company is considered to have control of a utility or another holding company if the holding company owns 10% or more of the utility or holding company's voting shares.

CODE OF CONDUCT

Under the bill, DPUC must establish a code of conduct setting standards for gas company transactions with its affiliates to achieve specified goods. The code must ensure that (1) such transactions do not have an improper and adverse impact on the company's costs or revenue, the rates and charges its customers pay, or the company's quality of service; (2) ratepayers do not subsidize affiliate operations; (3) there are fair, appropriate and equitable standards for purchases, sales, leases, asset transfers, and cost or profit-sharing transactions, or any type of financing or encumbrance involving a company and its affiliates; and (4) the company provides supply and distribution services in an appropriate manner to both affiliates and nonaffiliates.

The code must provide rules (1) requiring appropriate types of contracts such as contracts at cost or at market prices for purchases and sales of goods and services between the company and its affiliates, and (2) limiting or prohibiting a company from sharing or giving affiliates access to commercially sensitive information or information that identifies customers. In addition, the code must:

1. provide for record keeping and reporting for transactions between the company and its affiliates;
2. establish standards to ensure that any payment between a company and its affiliate is appropriate and reasonable; and
3. provide a standard for avoiding conflicts of interest between the company and its affiliates.

The code of conduct cannot prohibit communications needed to (1) restore gas service or (2) to prevent or respond to emergencies.

INVESTIGATIVE POWERS

The bill allows DPUC to:

1. summon witnesses from an affiliate with which a company has had direct or indirect transactions;
2. examine the affiliate under oath; and
3. order production, inspection and audit of its books, records, or any type of information.

DPUC may, on its own motion or in response to a petition by an interested person, investigate a gas company's compliance with the code. DPUC must conduct these investigations as a contested case, a quasi-judicial proceeding. DPUC can order a company's affiliate to participate in the proceedings as a party.

Each gas company must submit to DPUC records and information regarding affiliate transactions as DPUC requires, at intervals it requires, and in the form it specifies. Affiliates having relations, transactions, or dealings with a company must file information about them with DPUC in a form it specifies.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/07/2006)