



House of Representatives

File No. 663

General Assembly

January Session, 2007

(Reprint of File No. 203)

Substitute House Bill No. 7178
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 30, 2007

**AN ACT CONCERNING WATER COMPANY INFRASTRUCTURE
PROJECTS.**

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

- 1 Section 1. (NEW) (*Effective from passage*) For purposes of this section:
- 2 (1) "Eligible projects" means those water company plant projects not
3 previously included in the water company's rate base in its most recent
4 general rate case and that are intended to improve or protect the
5 quality and reliability of service to customers, including (A) renewal or
6 replacement of existing infrastructure, including mains, valves,
7 services, meters and hydrants that have either reached the end of their
8 useful life, are worn out, are in deteriorated condition, are or will be
9 contributing to unacceptable levels of unaccounted for water, or are
10 negatively impacting water quality or reliability of service if not
11 replaced; (B) main cleaning and relining projects; (C) relocation of
12 facilities as a result of government actions, the capital costs of which
13 are not otherwise eligible for reimbursement; and (D) purchase of leak
14 detection equipment or installation of production meters, and pressure
15 reducing valves.

- 16 (2) "Department" means the Department of Public Utility Control.
- 17 (3) "Infrastructure assessment report" means a report filed by a
18 water company with the department that identifies water system
19 infrastructure needs and the company's criteria for determining the
20 priority for eligible projects related to infrastructure.
- 21 (4) "Pretax return" means the revenue necessary, after deduction of
22 depreciation and property taxes, to produce net operating income
23 equal to the water company's weighted cost of capital as approved by
24 the department in the company's most recent general rate case
25 multiplied by the new original cost of eligible projects.
- 26 (5) "Reconciliation adjustment" means the difference between
27 revenues actually collected through the water infrastructure and
28 conservation adjustment and the amount allowed under the WICA for
29 that period for the eligible projects. The amount of revenues
30 overcollected or undercollected through the adjustment will be
31 recovered or refunded, as appropriate, as a reconciliation adjustment
32 over a one-year period commencing on April first.
- 33 (6) "Water company" means a water company, as defined in section
34 16-1 of the general statutes, that has filed for approval an individual
35 infrastructure assessment report to support a request for a WICA
36 adjustment.
- 37 (7) "Water Infrastructure and Conservation Adjustment (WICA)"
38 means an adjustment applied as a charge or credit to a water company
39 customers' rates to recover the WICA costs of eligible projects.
- 40 (8) "WICA costs" means the depreciation and property tax expenses
41 and associated return on completed eligible projects.
- 42 (9) "WICA revenues" means the revenues provided through a water
43 infrastructure and conservation adjustment for eligible projects.
- 44 Sec. 2. (NEW) (*Effective from passage*) (a) The Department of Public
45 Utility Control may authorize a water company to use a rate

46 adjustment mechanism, such as a water infrastructure and
47 conservation adjustment (WICA), for eligible projects completed and
48 in service for the benefit of the customers. A water company may only
49 charge customers such an adjustment to the extent allowed by the
50 department based on a water company's infrastructure assessment
51 report, as approved by the department and upon semiannual filings by
52 the company which reflect plant additions consistent with such report.
53 The department, in consultation with the Office of Consumer Counsel,
54 shall conduct the proceeding in accordance with the provisions of
55 section 16-18a of the general statutes.

56 (b) On or before ninety days after the effective date of this section,
57 the department shall initiate a generic docket on what shall be
58 included in a water company's infrastructure assessment report and
59 annual reconciliation reports and the criteria for determining priority
60 of eligible projects. The department shall provide public notice with a
61 deadline for interested parties to submit recommendations on the
62 report contents and criteria. The department may hold a hearing on the
63 generic docket but shall issue a decision on the docket not later than
64 one hundred eighty days after the deadline for interested parties to
65 submit their recommendations on the report contents and criteria.

66 (c) The water company shall file their individual infrastructure
67 assessment report with the department and such report shall identify
68 the water system infrastructure needs and a water company's criteria
69 for determining priority for eligible projects related to infrastructure.
70 The department shall address such criteria in its docket initiated
71 pursuant to subsection (b) of this section. Criteria may include, but
72 shall not be limited to, (1) age, material or condition of the facilities; (2)
73 extent and frequency of main breaks or interruption of service; (3)
74 adequacy of pressure; (4) head loss; (5) availability of fire flows; and (6)
75 the potential of such projects to improve system integrity and
76 reliability.

77 (d) The department shall approve a water company's individual
78 infrastructure assessment report upon determining that the company

79 has demonstrated through generally accepted engineering practices (1)
80 the infrastructure projects considered for renewal or replacement are
81 eligible projects; (2) such projects will benefit customers by improving
82 water quality, system integrity or service reliability; (3) they adhere to
83 the criteria established for determining priority for infrastructure
84 projects; and (4) there is a sufficient level of investment in
85 infrastructure. The department may hold a hearing to solicit input on a
86 water company's individual infrastructure assessment report provided
87 a decision on the assessment is made not later than one hundred
88 eighty days after filing. Any such report not approved, rejected or
89 modified by the department within such one-hundred-eighty-day
90 period shall be deemed to have been approved.

91 (e) Notwithstanding the provisions of section 16-19 of the general
92 statutes, upon department approval of a water company's individual
93 infrastructure assessment report, the water company may charge the
94 WICA for eligible projects in addition to such water company's
95 existing rate schedule pursuant to subsection (f) of this section and the
96 procedures and customer notification requirements in subsections (g)
97 and (h) of this section.

98 (f) The WICA adjustment shall be calculated as a percentage, based
99 on the original cost of completed eligible projects multiplied by the
100 applicable rate of return, plus associated depreciation and property tax
101 expenses related to eligible projects and any reconciliation adjustment
102 calculated pursuant to subsection (j) of this section as a percentage of
103 the retail water revenues approved in its most recent rate filing for the
104 regulated activities of said water company.

105 (g) A water company may impose the WICA adjustment for eligible
106 projects as a charge or credit on customers' bills at intervals of not less
107 than six months, commencing on either January first, April first, July
108 first or October first in any year. No proposed WICA charge or credit
109 shall become effective until the Department of Public Utility Control
110 has approved such charges or credits pursuant to an administrative
111 proceeding. The department may receive and consider comments of

112 interested persons and members of the public at such a proceeding,
113 which shall not be considered a contested case for purposes of title 4 of
114 the general statutes, this section or any regulation adopted thereunder.
115 Such administrative proceeding shall be completed not later than
116 thirty days after the filing of an application by a water company or
117 within a time period as otherwise established in the generic docket
118 conducted pursuant to subsection (b) of this section. Any approval or
119 denial of the department pursuant to this subsection shall not be
120 deemed an order, authorization or decision of the department for
121 purposes of section 16-35 of the general statutes. Notwithstanding the
122 provisions of this section, if the department has not rendered an
123 approval or denial concerning any such application within the
124 established timeframe, the proposed charges or credits shall become
125 effective at the option of the company pending the department's
126 finding with respect to such charges, provided the company will
127 refund its customers any such amounts collected from them in excess
128 of the charges approved by the department in its finding.

129 (h) Water companies shall notify customers through a bill insert or
130 other direct communications when the adjustment is first applied and
131 the WICA charge or credit shall appear as a separate item on
132 customers' bills.

133 (i) The amount of the WICA applied between general rate case
134 filings shall not exceed seven and one-half per cent of the water
135 company's annual retail water revenues approved in its most recent
136 rate filing, and shall not exceed five per cent of such revenues for any
137 twelve-month period. The amount of the adjustment shall be reset to
138 zero as of the effective date of new base rates approved pursuant to
139 section 16-19 of the general statutes and shall be reset to zero if the
140 company exceeds the allowable rate of return by more than one
141 hundred basis points for any calendar year.

142 (j) On or before February twenty-eighth of each year, a water
143 company shall submit to the department an annual reconciliation
144 report for any WICA charges applied to customers' rates through

145 December thirty-first of the previous calendar year. Such reconciliation
146 report shall identify those projects that have been completed,
147 demonstrate that the WICA charges are limited to eligible projects that
148 are in service and used and useful as of the end of the calendar year,
149 and include any other information required as a result of the generic
150 docket conducted pursuant to subsection (b) of this section. The
151 company shall indicate in its report any significant changes in the
152 extent of infrastructure spending, the priorities for determining eligible
153 projects or the criteria established in the infrastructure assessment
154 report. In addition, the reconciliation report shall compare the WICA
155 revenues actually collected to the allowed amount of the adjustment. If
156 upon completion of the review of the annual reconciliation report the
157 department determines that a water company overcollected or
158 undercollected the WICA adjustment, the difference between the
159 revenue and costs for eligible projects will be recovered or refunded, as
160 appropriate, as a reconciliation adjustment over a one-year period
161 commencing on April first. The company shall refund the customers
162 with interest for any overcollection but shall not be eligible for interest
163 for any undercollection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Various	Various - See Below	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	See Below	See Below	See Below

Explanation

The bill allows water companies to implement certain rate adjustment surcharges, through authorization by the Department of Public Utility Control (DPUC). The extent to which these surcharges would be sought and approved may have an effect on the state and municipalities as water consumers. The extent to which an impact may occur, cannot be determined at this time.

House "A" makes several changes to the conditions and process under which the rate adjustment surcharges are implemented, which has no fiscal impact.

The Out Years

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

OLR Bill Analysis**sHB 7178 (as amended by House "A")*****AN ACT CONCERNING WATER COMPANY INFRASTRUCTURE PROJECTS.****SUMMARY:**

This bill authorizes the Department of Public Utility Control (DPUC) to allow a water company to use a rate adjustment mechanism (e.g., a surcharge) in the period between rate cases in order to recover the depreciation, property taxes, and related return for certain company capital projects that have been completed. The bill specifies how DPUC must establish such mechanisms and how they would work.

*House Amendment "A" (1) limits the type of projects eligible for the rate adjustment mechanism by excluding certain main extensions and stream gauging stations, (2) adds the deadline for DPUC to issue its decision in the initial generic proceeding, (3) modifies DPUC's deadline to act on individual applications, and (4) makes various minor changes.

EFFECTIVE DATE: Upon passage

DPUC ESTABLISHMENT OF THE MECHANISM

Under the bill, a water company may only use the adjustment to the extent allowed by DPUC based on the company's infrastructure assessment report, as approved by DPUC, and semi-annual filings by the company that reflect plant additions consistent with the report.

The bill requires DPUC, by 90 days after the bill's passage, to begin a generic proceeding to determine what must be included in the

assessment report. The bill requires the report to identify the company's water system infrastructure needs and its criteria for determining which are priority projects. The proceeding must also specify the contents of an annual reconciliation report, described below. DPUC can hold a hearing to solicit input on the contents of these reports and on the criteria for determining project priority. It must issue its decision within 180 days after the deadline for interested parties to submit their recommendations.

ELIGIBLE PROJECTS

To be eligible for the adjustment mechanism, a capital project (1) must not have been previously included in the water company's rate base in its most recent rate case and (2) must be intended to improve or protect the quality and reliability of service. Eligible projects can include:

1. the renewal or replacement of existing infrastructure, such as, mains and valves, that have reached the end of their useful life, are worn out, are deteriorated, are or will be contributing to unacceptable levels of unaccounted-for water, or are harmful to water quality or reliability of service if not replaced;
2. main cleaning and relining projects;
3. relocation of facilities as a result of government actions, when the capital costs are not otherwise eligible for reimbursement; and
4. purchasing leak detection equipment or installing production meters or pressure reducing valves.

APPLICATION FOR THE ADJUSTMENT

A water company seeking to use the adjustment mechanism must file the assessment report with DPUC. The report must identify the water system's infrastructure needs and the company's criteria for determining priorities among eligible infrastructure projects. In reviewing the report, DPUC must address the criteria specified in its

proceeding. DPUC's approval criteria must include: (1) the facilities' age, material, or condition; (2) the extent and frequency of main breaks or interruption of service; (3) adequacy of pressure; (4) head loss; (5) availability of fire flows; and (6) the potential impact of the projects on system integrity and reliability.

DPUC APPROVAL

DPUC must approve an assessment report if the company demonstrates through generally accepted engineering practices that (1) the projects are eligible under the bill; (2) they will benefit customers by improving water quality, system integrity, or service reliability; (3) they adhere to the criteria established for determining priority for projects, and (4) there is sufficient investment in infrastructure. DPUC may hold a hearing to solicit input on the infrastructure assessment report so long as it issues a decision within 180 days after the report is filed. If DPUC does not act on the report within this time, it is considered to have been approved.

The bill states that DPUC, in conjunction with the Office of Consumer Counsel, must conduct the proceeding pursuant to an existing law that deals with the retention of consultants by these agencies. It is unclear how this applies to this bill (CGS § 16-18a).

IMPOSITION OF THE SURCHARGE

Upon DPUC approval, the company can impose a rate adjustment. The adjustment must be calculated as a percentage, based on (1) the original cost of completed projects times the applicable rate of return, plus associated depreciation and property tax expenses related to the projects and (2) any reconciliation adjustment calculated as a percentage of the retail water revenues approved in the company's most recent rate filing versus the projected revenues for the regulated activities of said water company. The first part of the approach is similar to how DPUC sets rates in a rate case.

Water companies can impose the surcharge for eligible projects on customers' bills at intervals of no less than six months, starting on

January first, April first, July first, and October first each year. No proposed charge or credit can become effective until DPUC has approved it in an administrative proceeding. DPUC must complete the hearing within 30 days after the filing of the applications or within the timeframe established in the initial generic proceeding. DPUC may receive and consider comments of interested persons and the public at the proceeding, which shall not be considered a contested case. DPUC's approval or denial is not considered a DPUC order, authorization, or decision and therefore cannot be appealed to the courts. If DPUC has not approved or denied an application within the bill's timeframe, the proposed charges or credits become effective at the company's option, pending DPUC's finding with respect to the charges. In such cases, the company must refund its customers any amounts collected from them in excess of the charges approved by DPUC in its finding.

The amount of the adjustment applied between general rate case filings cannot exceed 7.5% of the company's annual revenues and 5% of revenues for any 12-month period. The amount of the adjustment must be reset to zero once new base rates are approved in a rate case or if the company exceeds its allowed rate of return by more than one percentage point for any calendar year. Water companies must notify customers through a bill insert or other direct communications when the adjustment is first applied after which it must appear as a separate item on the customers' bills.

RECONCILIATION REPORT

The bill requires affected water companies to submit to DPUC, by February 28 annually, an annual reconciliation report through December 31 for any adjustment applied to customers' rates in the previous calendar year. The report must identify those parts of projects that have been completed. It must demonstrate that the adjustment was limited to eligible projects that were in service and used and useful as of the end of the calendar year. In addition, the report must indicate whether there have been any significant changes in the

amount of infrastructure spending, the priorities for determining eligible projects, or the criteria established in the report. The report must compare the revenues actually collected to the allowed amount of the adjustment.

If upon the completion of the report, DPUC determines that the company over-collected or under-collected the adjustment, the difference between the revenue and costs for eligible projects will be recovered or refunded, as appropriate, as a reconciliation adjustment over a one-year period beginning on April 1. The company must provide a refund to customers, with interest, for any over-collection, but the company is not eligible for interest for any under-collection.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/13/2007)

Government Administration and Elections Committee

Joint Favorable

Yea 13 Nay 0 (04/11/2007)