



Senate

General Assembly

File No. 190

January Session, 2007

Substitute Senate Bill No. 1328

Senate, March 29, 2007

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

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC UTILITY CONTROL.

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2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

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

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

46 (1) Provide rules for when the purchases or sales of goods or

47 services between a gas company and an affiliate should be by written
48 contract based on such factors as the nature, value and term of the
49 purchase or sale;

50 (2) Provide rules with respect to sharing or giving access to certain
51 types of customer identifying or commercially sensitive information to
52 affiliates that may differ between regulated and unregulated affiliates;

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

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

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

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

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

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

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

73 (c) In addition to the powers granted to the department in section
74 16-8c of the general statutes, during a rate proceeding under 16-19 of
75 the general statutes, as amended by this act, the department may

76 summon witnesses from an affiliate with which a gas company has
77 had direct or indirect transactions, examine the affiliate under oath and
78 order production, inspection and audit of its books, records or other
79 information relevant to any transaction that the department has reason
80 to believe has or will have an adverse impact on the costs and revenues
81 of the affiliated gas company. Proprietary commercial and proprietary
82 financial information of an affiliate provided pursuant to this section
83 shall be confidential and protected by the department, subject to the
84 provisions of section 1-210 of the general statutes.

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

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

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

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

100 (h) On or before November 1, 2007, the department shall adopt
101 regulations, in accordance with the provisions of chapter 54 of the
102 general statutes, to establish the code of conduct in accordance with
103 subsection (b) of this section, related accounting and reporting
104 requirements and procedures for gas company and affiliate
105 compliance with this section.

106 (i) Any methodology for the allocation of costs between a gas

107 company and other companies under the control of the same holding
108 company currently approved by, or under current orders issued by,
109 the Securities and Exchange Commission under the Public Utility
110 Holding Company Act of 1935 or the Federal Energy Regulatory
111 Commission under the Public Utility Holding Company Act of 2005,
112 shall be entitled to a rebuttable presumption of reasonableness.
113 Charges rendered to a gas company by an affiliate that is a traditional
114 centralized service company shall be at cost and entitled to a rebuttable
115 presumption of reasonableness.

116 Sec. 3. Subsection (h) of section 16-19b of the general statutes is
117 repealed and the following is substituted in lieu thereof (*Effective from*
118 *passage*):

119 (h) The Department of Public Utility Control shall continually
120 monitor and oversee the application of the purchased gas adjustment
121 clause, the energy adjustment clause, and the transmission rate
122 adjustment clause. [The] For the energy adjustment and transmission
123 adjustment clauses, the department shall hold a public hearing thereon
124 whenever the department deems it necessary or upon application of
125 the Office of Consumer Counsel, but no less frequently than once
126 every six months. [, and] For the purchase gas adjustment clause, the
127 department shall hold a public hearing thereon whenever the
128 department deems it necessary or upon application of the Office of
129 Consumer Counsel, but no less frequently than annually. The
130 department shall undertake such other proceeding thereon to
131 determine whether charges or credits made under such clauses reflect
132 the actual prices paid for purchased gas or energy and the actual
133 transmission costs and are computed in accordance with the applicable
134 clause. If the department finds that such charges or credits do not
135 reflect the actual prices paid for purchased gas or energy, and the
136 actual transmission costs or are not computed in accordance with the
137 applicable clause, it shall recompute such charges or credits and shall
138 direct the company to take such action as may be required to insure
139 that such charges or credits properly reflect the actual prices paid for
140 purchased gas or energy and the actual transmission costs and are

141 computed in accordance with the applicable clause for the applicable
142 period.

143 Sec. 4. Subsection (a) of section 16-19 of the general statutes is
144 repealed and the following is substituted in lieu thereof (*Effective from*
145 *passage*):

146 (a) No public service company may charge rates in excess of those
147 previously approved by the authority or the Department of Public
148 Utility Control except that any rate approved by the Public Utilities
149 Commission or the authority shall be permitted until amended by the
150 authority or the department, that rates not approved by the authority
151 or the department may be charged pursuant to subsection (b) of this
152 section, and that the hearing requirements with respect to adjustment
153 clauses are as set forth in section 16-19b, as amended by this act. Each
154 public service company shall file any proposed amendment of its
155 existing rates with the department in such form and in accordance
156 with such reasonable regulations as the department may prescribe.
157 Each electric, electric distribution, gas or telephone company filing a
158 proposed amendment shall also file with the department an estimate
159 of the effects of the amendment, for various levels of consumption, on
160 the household budgets of high and moderate income customers and
161 customers having household incomes not more than one hundred fifty
162 per cent of the federal poverty level. Each electric and electric
163 distribution company shall also file such an estimate for space heating
164 customers. Each water company, except a water company that
165 provides water to its customers less than six consecutive months in a
166 calendar year, filing a proposed amendment, shall also file with the
167 department a plan for promoting water conservation by customers in
168 such form and in accordance with a memorandum of understanding
169 entered into by the department pursuant to section 4-67e. Each public
170 service company shall notify each customer who would be affected by
171 the proposed amendment, by mail, at least one week prior to the
172 public hearing thereon but no earlier than four weeks prior to the start
173 of the public hearing, that an amendment has been or will be
174 requested. Such notice shall also indicate (1) [the Department of Public

175 Utility Control] the date or dates, time or times and location or
176 locations of the scheduled public hearing, (2) a statement that
177 customers may provide comments regarding the proposed rate request
178 by writing to the Department of Public Utility Control or by appearing
179 in person at one of the scheduled public hearings, (3) the department's
180 telephone number for obtaining information concerning the schedule
181 for public hearings on the proposed amendment, and [(2)] (4) whether
182 the proposed amendment would, in the company's best estimate,
183 increase any rate or charge by twenty per cent or more, and, if so,
184 describe in general terms any such rate or charge and the amount of
185 the proposed increase, provided no such company shall be required to
186 provide more than one form of the notice to each class of its customers.
187 In the case of a proposed amendment to the rates of any public service
188 company, the department shall hold a public hearing thereon, except
189 as permitted with respect to interim rate amendments by subsection
190 (d) and subsection (g) of this section, and shall make such investigation
191 of such proposed amendment of rates as is necessary to determine
192 whether such rates conform to the principles and guidelines set forth
193 in section 16-19e, or are unreasonably discriminatory or more or less
194 than just, reasonable and adequate, or that the service furnished by
195 such company is inadequate to or in excess of public necessity and
196 convenience. The department, if in its opinion such action appears
197 necessary or suitable in the public interest may, and, upon written
198 petition or complaint of the state, under direction of the Governor,
199 shall, make the aforesaid investigation of any such proposed
200 amendment which does not involve an alteration in rates. If the
201 department finds any proposed amendment of rates to not conform to
202 the principles and guidelines set forth in section 16-19e, or to be
203 unreasonably discriminatory or more or less than just, reasonable and
204 adequate to enable such company to provide properly for the public
205 convenience, necessity and welfare, or the service to be inadequate or
206 excessive, it shall determine and prescribe, as appropriate, an adequate
207 service to be furnished or just and reasonable maximum rates and
208 charges to be made by such company. In the case of a proposed
209 amendment filed by an electric, electric distribution, gas or telephone

210 company, the department shall also adjust the estimate filed under this
211 subsection of the effects of the amendment on the household budgets
212 of the company's customers, in accordance with the rates and charges
213 approved by the department. The department shall issue a final
214 decision on each rate filing within one hundred fifty days from the
215 proposed effective date thereof, provided it may, before the end of
216 such period and upon notifying all parties and intervenors to the
217 proceedings, extend the period by thirty days.

218 Sec. 5. Section 16-22 of the general statutes is repealed and the
219 following is substituted in lieu thereof (*Effective October 1, 2007*):

220 At any hearing involving a rate or the transfer of ownership of
221 assets or a franchise of a public service company, or the formation or
222 change in control of a holding company, as defined in section 16-47, as
223 amended by this act, that involves a public service company within
224 this state, the burden of proving that [said] the rate under
225 consideration is just and reasonable or that [said] the transfer of assets
226 or franchise or that the change in control or formation of a holding
227 company is just and reasonable and is in the public interest shall be on
228 the public service company or the applicant company. The provisions
229 of this section shall not apply to the regulation of a
230 telecommunications service which is a competitive service, as defined
231 in section 16-247a.

232 Sec. 6. Section 16-6a of the general statutes is repealed and the
233 following is substituted in lieu thereof (*Effective July 1, 2007*):

234 (a) The Department of Public Utility Control and the Office of
235 Consumer Counsel are authorized to participate in proceedings before
236 agencies of the federal government and the federal courts on matters
237 affecting utility services rendered or to be rendered in this state.

238 [(b) For any proceeding before the Federal Energy Regulatory
239 Commission, the United States Department of Energy or the United
240 States Nuclear Regulatory Commission, or appeal thereof, the
241 Attorney General, upon request of the department, may retain outside

242 legal counsel in accordance with section 3-125 to participate in such
243 proceedings on behalf of the department. All reasonable and proper
244 expenses of such outside legal counsel shall be borne by the public
245 service companies, certified telecommunications providers, electric
246 suppliers or gas registrants that are affected by the decisions of such
247 proceedings and shall be paid at such times and in such manner as the
248 department directs, provided such expenses shall be apportioned in
249 proportion to the revenues of each affected entity as reported to the
250 department for purposes of section 16-49 for the most recent period,
251 and provided further such expenses shall not exceed two hundred fifty
252 thousand dollars per proceeding, including any appeals thereof, in any
253 calendar year unless the department finds good cause for exceeding
254 the limit and the affected entities have an opportunity, after reasonable
255 notice, to comment on the proposed overage. All such legal expenses
256 shall be recognized by the department as proper business expenses of
257 the affected entities for rate-making purposes, as provided in section
258 16-19e, if applicable.

259 (c) For any proceeding before the Federal Energy Regulatory
260 Commission, the United States Department of Energy, the United
261 States Nuclear Regulatory Commission, the Securities and Exchange
262 Commission, the Federal Trade Commission, the United States
263 Department of Justice or the Federal Communications Commission, or
264 appeal thereof, the Attorney General, upon request of the Office of
265 Consumer Counsel, may retain outside legal counsel in accordance
266 with section 3-125 to participate in such proceedings on behalf of the
267 office, provided the work performed on behalf of the office shall not
268 include lobbying activities, as defined in 2 USC 1602. All reasonable
269 and proper expenses of such outside legal counsel shall be borne by
270 the public service companies, certified telecommunications providers,
271 electric suppliers or gas registrants that are affected by the decisions of
272 such proceedings and shall be paid at such times and in such manner
273 as the office directs, provided such expenses shall be apportioned in
274 proportion to the revenues of each affected entity as reported to the
275 department for purposes of section 16-49 for the most recent period,
276 and provided further such expenses shall not exceed two hundred fifty

277 thousand dollars, including any appeals thereof, in any calendar year.
278 The Department of Public Utility Control shall recognize all such legal
279 expenses as proper business expenses of the affected entities for rate-
280 making purposes, as provided in section 16-19e, if applicable.]

281 (b) For any proceeding before the Federal Energy Regulatory
282 Commission, the United States Department of Energy, the United
283 States Nuclear Regulatory Commission, the United States Securities
284 and Exchange Commission, the Federal Trade Commission, the United
285 States Department of Justice or the Federal Communications
286 Commission, the Department of Public Utility Control and the Office
287 of Consumer Counsel may retain consultants to assist their respective
288 staffs in such proceedings by providing expertise in areas in which
289 staff expertise does not currently exist or when necessary to
290 supplement staff expertise. All reasonable and proper expenses of such
291 expert consultants shall be borne by the public service companies,
292 certified telecommunications providers, electric suppliers or gas
293 registrants that are affected by the decisions of such proceedings and
294 shall be paid at such times and in such manner as the department
295 directs, provided such expenses (1) shall be apportioned in proportion
296 to the revenues of each affected entity as reported to the department
297 for purposes of section 16-49 for the most recent period, and (2) shall
298 not exceed two hundred fifty thousand dollars per proceeding,
299 including any appeals thereof, in any calendar year unless the
300 department finds good cause for exceeding the limit. All such expenses
301 shall be recognized by the department as proper business expenses of
302 the affected entities for rate-making purposes pursuant to section 16-
303 19e, if applicable.

304 Sec. 7. Subsection (c) of section 16-262j of the general statutes is
305 repealed and the following is substituted in lieu thereof (*Effective from*
306 *passage*):

307 (c) Each public service company, certified telecommunications
308 provider and electric supplier shall pay interest on any security
309 deposit it receives from a customer at the average rate paid, as of

310 December 30, 1992, on savings deposits by insured commercial banks
311 as published in the Federal Reserve Board bulletin and rounded to the
312 nearest one-tenth of one percentage point, except in no event shall the
313 rate be less than one and one-half per cent. On and after January 1,
314 1994, the rate for each calendar year shall be not less than the deposit
315 index as determined by the Banking Commissioner and, as defined in
316 subsection (d) of this section, for that year and rounded to the nearest
317 one-tenth of one percentage point, except in no event shall the rate be
318 less than one and one-half per cent.

319 Sec. 8. Subsection (c) of section 16-8a of the general statutes is
320 repealed and the following is substituted in lieu thereof (*Effective from*
321 *passage*):

322 (c) (1) Not more than [thirty] ninety business days after receipt of a
323 written complaint, in a form prescribed by the department, by an
324 employee alleging the employee's employer has retaliated against an
325 employee in violation of subsection (a) of this section, the department
326 shall make a preliminary finding in accordance with this subsection.

327 (2) Not more than five business days after receiving a written
328 complaint, in a form prescribed by the department, the department
329 shall notify the employer by certified mail. Such notification shall
330 include a description of the nature of the charges and the substance of
331 any relevant supporting evidence. The employer may submit a written
332 response and both the employer and the employee may present
333 rebuttal statements in the form of affidavits from witnesses and
334 supporting documents and may meet with the department informally
335 to respond verbally about the nature of the employee's charges. The
336 department shall consider in making its preliminary finding as
337 provided in subdivision (3) of this subsection any such written and
338 verbal responses, including affidavits and supporting documents,
339 received by the department not more than twenty business days after
340 the employer receives such notice. Any such response received after
341 twenty business days shall be considered by the department only upon
342 a showing of good cause and at the discretion of the department. The

343 department shall make its preliminary finding as provided in
344 subdivision (3) of this subsection based on information described in
345 this subdivision, without a public hearing.

346 (3) Unless the department finds by clear and convincing evidence
347 that the adverse employment action was taken for a reason
348 unconnected with the employee's report of substantial misfeasance,
349 malfeasance or nonfeasance, there shall be a rebuttable presumption
350 that an employee was retaliated against in violation of subsection (a) of
351 this section if the department finds that: (A) The employee had
352 reported substantial misfeasance, malfeasance or nonfeasance in the
353 management of the public service company, holding company or
354 licensee; (B) the employee was subsequently discharged, suspended,
355 demoted or otherwise penalized by having the employee's status of
356 employment changed by the employee's employer; and (C) the
357 subsequent discharge, suspension, demotion or other penalty followed
358 the employee's report closely in time.

359 (4) If such findings are made, the department shall issue an order
360 requiring the employer to immediately return the employee to the
361 employee's previous position of employment or an equivalent position
362 pending the completion of the department's full investigatory
363 proceeding pursuant to subsection (d) of this section.

364 Sec. 9. Subdivision (1) of subsection (b) of section 16-262c of the
365 general statutes is repealed and the following is substituted in lieu
366 thereof (*Effective from passage*):

367 (b) (1) From November first to April fifteenth, inclusive, no electric
368 or electric distribution company, as defined in section 16-1, as
369 amended by this act, no electric supplier and no municipal utility
370 furnishing electricity shall terminate, deny or refuse to reinstate
371 residential electric service in hardship cases where the customer lacks
372 the financial resources to pay his or her entire account. From
373 November first to April fifteenth, inclusive, no gas company and no
374 municipal utility furnishing gas shall terminate or refuse to reinstate
375 residential gas service in hardship cases where the customer uses such

376 gas for heat and lacks the financial resources to pay his or her entire
377 account, except a gas company that, between April sixteenth and
378 October thirty-first, terminated gas service to a residential customer
379 who uses gas for heat and who, during the previous period of
380 November first to April fifteenth, had gas service maintained because
381 of hardship status, may refuse to reinstate the gas service from
382 November first to April fifteenth, inclusive, only if the customer has
383 failed to pay, since the preceding November first, the lesser of: (A)
384 Twenty per cent of the outstanding principal balance owed the gas
385 company as of the date of termination, (B) one hundred dollars, or (C)
386 the minimum payments due under the customer's amortization
387 agreement. Notwithstanding any other provision of the general
388 statutes to the contrary, no electric, electric distribution or gas
389 company, no electric supplier and no municipal utility furnishing
390 electricity or gas shall terminate or refuse to reinstate residential
391 electric or gas service where the customer lacks the financial resources
392 to pay his or her entire account and for which customer or a member
393 of the customer's household the termination or failure to reinstate such
394 service would create a life-threatening situation.

395 Sec. 10. Subdivision (30) of subsection (a) of section 16-1 of the
396 general statutes is repealed and the following is substituted in lieu
397 thereof (*Effective from passage*):

398 (30) "Electric supplier" means any person [, including an electric
399 aggregator] or participating municipal electric utility that is licensed
400 by the Department of Public Utility Control in accordance with section
401 16-245, as amended by this act, [that] and provides electric generation
402 services to end use customers in the state using the transmission or
403 distribution facilities of an electric distribution company, regardless of
404 whether or not such person takes title to such generation services, but
405 does not include: (A) A municipal electric utility established under
406 chapter 101, other than a participating municipal electric utility; (B) a
407 municipal electric energy cooperative established under chapter 101a;
408 (C) an electric cooperative established under chapter 597; (D) any other
409 electric utility owned, leased, maintained, operated, managed or

410 controlled by any unit of local government under any general statute
411 or special act; or (E) an electric distribution company in its provision of
412 electric generation services in accordance with subsection (a) or, prior
413 to January 1, 2004, subsection (c) of section 16-244c.

414 Sec. 11. Subdivision (31) of subsection (a) of section 16-1 of the
415 general statutes is repealed and the following is substituted in lieu
416 thereof (*Effective from passage*):

417 (31) "Electric aggregator" means [(A) a person, municipality or
418 regional water authority that] any person, municipality, regional water
419 authority or the Connecticut Resource Recovery Authority, if such
420 entity gathers together electric customers for the purpose of
421 negotiating the purchase of electric generation services from an electric
422 supplier, [or (B) the Connecticut Resources Recovery Authority, if it
423 gathers together electric customers for the purpose of negotiating the
424 purchase of electric generation services from an electric supplier,]
425 provided such [person, municipality or authority] entity is not
426 engaged in the purchase or resale of electric generation services, and
427 provided further such customers contract for electric generation
428 services directly with an electric supplier, and may include an electric
429 cooperative established pursuant to chapter 597.

430 Sec. 12. Subsection (a) of section 16-1 of the general statutes is
431 amended by adding subdivision (46) as follows (*Effective from passage*):

432 (NEW) (46) "Electric broker" means any person, municipality,
433 regional water authority or the Connecticut Resources Recovery
434 Authority, if such entity arranges or acts as an agent, negotiator or
435 intermediary in the sale or purchase of electric generation services
436 between any end use customer in the state and any electric supplier,
437 but does not take title to any of the generation services sold, provided
438 (A) such entity is not engaged in the purchase and resale of electric
439 generation services, and (B) such customer contracts for electric
440 generation services directly with an electric supplier, and may include
441 an electric cooperative established pursuant to chapter 597.

442 Sec. 13. Subsection (l) of section 16-245 of the general statutes is
443 repealed and the following is substituted in lieu thereof (*Effective from*
444 *passage*):

445 (l) (1) An electric aggregator or electric broker shall not be subject to
446 the provisions of subsections (a) to (k), inclusive, of this section.

447 (2) No electric aggregator or electric broker shall arrange or
448 negotiate a contract for the purchase of electric generation services
449 from an electric supplier unless such aggregator or electric broker has
450 [(A)] obtained a certificate of registration from the Department of
451 Public Utility Control in accordance with this subsection. [, or (B) in the
452 case of a municipality, regional water authority and the Connecticut
453 Resources Recovery Authority, registered in accordance with section
454 16-245b.] An electric aggregator that was licensed pursuant to this
455 section prior to July 1, 2003, shall receive a certificate of registration on
456 July 1, 2003. An entity that has been issued an electric supplier license
457 by the Department of Public Utility Control pursuant to subsections (a)
458 to (k), inclusive, of this section may act as an electric aggregator or
459 electric broker without having to obtain a certificate of registration in
460 accordance with this subsection.

461 (3) An application for a certificate of registration shall be filed with
462 the department, accompanied by a fee as determined by the
463 department. The application shall contain such information as the
464 department may deem relevant, including, but not limited to, the
465 following: (A) The address of the applicant's headquarters and the
466 articles of incorporation, if applicable, as filed with the state in which
467 the applicant is incorporated; (B) the address of the applicant's
468 principal office in the state, if any, or the address of the applicant's
469 agent for service in the state; (C) the toll-free or in-state telephone
470 number of the applicant; (D) information about the applicant's
471 corporate structure, if applicable, including [financial names and
472 financial statements, as relevant, concerning] names and background
473 information of corporate affiliates; (E) disclosure of whether the
474 applicant or any of the applicant's corporate affiliates or officers, if

475 applicable, have been or are currently under investigation for violation
476 of any consumer protection law or regulation to which it is subject,
477 either in this state or in another state. Each registered electric
478 aggregator or electric broker shall update the information contained in
479 this subdivision as necessary.

480 (4) Not more than thirty days after receiving an application for a
481 certificate of registration, the department shall notify the applicant
482 whether the application is complete or whether the applicant must
483 submit additional information. The department shall grant or deny the
484 application for a certificate of registration not more than ninety days
485 after receiving all information required of an applicant. The
486 department shall hold a public hearing on an application upon the
487 request of any interested party.

488 (5) As a condition for maintaining a certificate of registration, the
489 registered electric aggregator or electric broker shall ensure that, where
490 applicable, it complies with the National Labor Relations Act and
491 regulations, if applicable, and it complies with the Connecticut Unfair
492 Trade Practices Act and applicable regulations.

493 (6) Any registered electric aggregator or electric broker that fails to
494 comply with a registration condition or violates any provision of this
495 section shall be subject to civil penalties by the Department of Public
496 Utility Control in accordance with the procedures contained in section
497 16-41, or the suspension or revocation of such registration, or a
498 prohibition on accepting new customers following a hearing that is
499 conducted as a contested case in accordance with the provisions of
500 chapter 54.

501 Sec. 14. Section 16-245b of the general statutes is repealed and the
502 following is substituted in lieu thereof (*Effective from passage*):

503 Notwithstanding the provisions of subsection (a) of section 16-245,
504 the provisions of said section shall not apply to (1) any municipality or
505 regional water authority that aggregates or brokers the sale of electric
506 generation services, or to the Connecticut Resources Recovery

507 Authority if such authority aggregates or brokers the sale of electric
508 generation services, for end use customers located within the
509 boundaries of such municipality or regional water authority, (2) any
510 municipality that joins together with other municipalities to aggregate
511 or broker the sale of electric generation services for end use customers
512 located within the boundaries of such municipalities, or (3) any
513 municipality or regional water authority that aggregates or brokers the
514 purchase of electric generation services for municipal facilities, street
515 lighting, boards of education and other publicly-owned facilities
516 within (A) the municipality for which the municipality is financially
517 responsible, or (B) the municipalities that are within the authorized
518 service area of the regional water authority. Any municipality or
519 regional water authority that aggregates or brokers in accordance with
520 this section shall register not less than annually with the Department
521 of Public Utility Control on a form prescribed by the department.

522 Sec. 15. Subsection (b) of section 16-245p of the general statutes is
523 repealed and the following is substituted in lieu thereof (*Effective from*
524 *passage*):

525 (b) The Department of Public Utility Control shall maintain and
526 make available to customers upon request, a list of electric aggregators
527 and electric brokers and the following information about each electric
528 supplier and each electric distribution company providing standard
529 service or back-up electric generation service, pursuant to section 16-
530 244c: (1) Rates and charges; (2) applicable terms and conditions of a
531 contract for electric generation services; (3) the percentage of the total
532 electric output derived from each of the categories of energy sources
533 provided in subsection (e) of section 16-244d, the total emission rates
534 of nitrogen oxides, sulfur oxides, carbon dioxide, carbon monoxide,
535 particulates, heavy metals and other wastes the disposal of which is
536 regulated under state or federal law at the facilities operated by or
537 under long-term contract to the electric supplier or providing electric
538 generation services to an electric distribution company providing
539 standard service or back-up electric generation service, pursuant to
540 section 16-244c, and the analysis of the environmental characteristics of

541 each such category of energy source prepared pursuant to subsection
542 (e) of [said] section 16-244d and to the extent such information is
543 unknown, the estimated percentage of the total electric output for
544 which such information is unknown, along with the word "unknown"
545 for that percentage; (4) a record of customer complaints and the
546 disposition of each complaint; and (5) any other information the
547 department determines will assist customers in making informed
548 decisions when choosing an electric supplier. The department shall
549 make available to customers the information filed pursuant to
550 subsection (a) of this section not later than thirty days after its receipt.
551 The department shall put such information in a standard format so
552 that a customer can readily understand and compare the services
553 provided by each electric supplier.

554 Sec. 16. Subdivision (19) of subsection (a) of section 22a-266 of the
555 general statutes is repealed and the following is substituted in lieu
556 thereof (*Effective from passage*):

557 (19) Act as an electric supplier, [or] an electric aggregator or an
558 electric broker pursuant to public act 98-28* provided any net revenue
559 to the authority from activities, contracts, products or processes
560 undertaken pursuant to this subdivision, after payment of principal
561 and interest on bonds and repayment of any loans or notes of the
562 authority, shall be distributed so as to reduce the costs of other
563 authority services to the users thereof on a pro rata basis proportionate
564 to costs paid by such users. In acting as an electric supplier, [or an]
565 electric aggregator or electric broker pursuant to any license granted
566 by the Department of Public Utility Control, the authority may enter
567 into contracts for the purchase and sale of electricity and electric
568 generation services, provided such contracts are solely for the
569 purposes of ensuring the provision of safe and reliable electric service
570 and protecting the position of the authority with respect to capacity
571 and price.

572 Sec. 17. Subsection (c) of section 7-148ee of the general statutes is
573 repealed and the following is substituted in lieu thereof (*Effective from*

574 *passage*):

575 (c) No corporation established pursuant to subsection (a) of this
576 section shall engage in the manufacture, distribution, purchase or sale,
577 or any combination thereof, of electricity, gas or water outside the
578 service area of such municipal electric or gas utility or within its
579 service area if it encroaches upon the service area or franchise area of
580 another water or gas utility. Nothing in this section shall be construed
581 to permit any municipal electric utility to engage in the sale, [or]
582 aggregation or brokering of electric generation services other than
583 pursuant to section 16-245, as amended by this act.

584 Sec. 18. Subsection (b) of section 33-219 of the general statutes is
585 repealed and the following is substituted in lieu thereof (*Effective from*
586 *passage*):

587 (b) Notwithstanding the provisions of subsection (a) of this section,
588 cooperative, nonprofit, membership corporations may be organized
589 under this chapter for the purpose of generating electric energy by
590 means of cogeneration technology, renewable energy resources or both
591 and supplying it to any member or supplying it to, purchasing it from
592 or exchanging it with a public service company, electric supplier, [as
593 defined in section 16-1,] municipal aggregator, [as defined in said
594 section] electric broker, municipal utility or municipal electric energy
595 cooperative, all as defined in section 16-1, as amended by this act, in
596 accordance with an agreement with the company, electric supplier,
597 electric aggregator, electric broker, municipal utility or cooperative. No
598 membership corporation under this subsection may exercise those
599 powers contained in subsection (i) or (j) of section 33-221 unless the
600 prior approval of the Department of Public Utility Control is obtained,
601 after opportunity for hearing in accordance with title 16 and chapter
602 54. Any cooperative organized on or after July 1, 1998, pursuant to this
603 subsection shall collect from its members the competitive transition
604 assessment levied pursuant to section 16-245g and the systems benefits
605 charge levied pursuant to section 16-245l in such manner and at such
606 rate as the Department of Public Utility Control prescribes, provided

607 the department shall order the collection of said assessment and said
608 charge in a manner and rate equal to that to which the members of the
609 cooperative would have been subject had the cooperative not been
610 organized.

611 Sec. 19. Section 16-247p of the general statutes is repealed and the
612 following is substituted in lieu thereof (*Effective from passage*):

613 (a) Not later than April 1, 2000, the Department of Public Utility
614 Control shall, by regulations adopted pursuant to chapter 54, establish
615 quality-of-service standards that shall apply to all telephone
616 companies and certified telecommunications providers and to all
617 telecommunications services. Such standards shall include, but not be
618 limited to, measures relating to customer trouble reports, service
619 outages, installation appointments and repeat problems as well as
620 timeliness in responding to complaints or reports. The department
621 shall include with the quality of service standards methodologies for
622 monitoring compliance with and enforcement of such standards. Such
623 monitoring shall include input from employees of telephone
624 companies and certified telecommunications providers, including
625 members of collective bargaining units.

626 (b) [Not later than April 1, 2000, the] The department shall, [by
627 regulations adopted pursuant to chapter 54] through administrative
628 proceedings, establish comprehensive performance standards and
629 performance based reporting requirements for functions provided by a
630 telephone company to a certified telecommunications provider,
631 including, but not limited to, telephone company performance relating
632 to customer ordering, preordering, provisioning, billing, maintenance
633 and repair. Such service standards shall be sufficiently comprehensive
634 to ensure that a telephone company meets its obligations under 47
635 USC 251. Such [regulations] standards may also contain provisions the
636 department deems necessary to prevent anticompetitive actions by any
637 telephone company or certified telecommunications provider.

638 (c) Notwithstanding subsection (b) of this section, the department
639 shall not adopt performance standards and performance-based

640 reporting requirements pursuant to subsection (b) of this section if a
 641 telephone company offers performance standards and measures to
 642 competitive local exchange carriers who obtain services pursuant to 47
 643 USC 251.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-47(a)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	16-19b(h)
Sec. 4	<i>from passage</i>	16-19(a)
Sec. 5	<i>October 1, 2007</i>	16-22
Sec. 6	<i>July 1, 2007</i>	16-6a
Sec. 7	<i>from passage</i>	16-262j(c)
Sec. 8	<i>from passage</i>	16-8a(c)
Sec. 9	<i>from passage</i>	16-262c(b)(1)
Sec. 10	<i>from passage</i>	16-1(a)(30)
Sec. 11	<i>from passage</i>	16-1(a)(31)
Sec. 12	<i>from passage</i>	16-1(a)
Sec. 13	<i>from passage</i>	16-245(l)
Sec. 14	<i>from passage</i>	16-245b
Sec. 15	<i>from passage</i>	16-245p(b)
Sec. 16	<i>from passage</i>	22a-266(a)(19)
Sec. 17	<i>from passage</i>	7-148ee(c)
Sec. 18	<i>from passage</i>	33-219(b)
Sec. 19	<i>from passage</i>	16-247p

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Public Utility Control, Dept.; Consumer Counsel; Various State Agencies	CC&PUCF - See Below	See Below	See Below

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact:

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

Explanation

This bill allows the Department of Public Utility Control (DPUC) to impose civil penalties, of up to \$10,000 for each violation of the newly created gas company transaction code of conduct. The amount of penalties that would be collected is not known at this time.

The bill also expands the ability of DPUC and the Office of Consumer Counsel to retain consultants and pass the cost onto the affected utility. Since these costs could affect the rates these utilities ultimately charge, there could be an impact on the state and municipalities as ratepayers, the extent of which is unknown at this time.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations and rate of retention of consultants.

OLR Bill Analysis**sSB 1328*****AN ACT CONCERNING THE DEPARTMENT OF PUBLIC UTILITY CONTROL.*****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, and impose civil penalties of up to \$10,000 per violation of the code. DPUC must adopt regulations by November 1, 2007 establishing the code and related accounting and reporting requirements and procedures.

The bill requires electric brokers to register with DPUC. "Electric brokers" are entities that arrange for the sale or purchase of power but do not take title to the power. The bill requires DPUC to maintain a publicly available list of brokers and makes related changes.

By law, the formation or change in control of utility holding companies is subject to DPUC approval. The bill places the burden of proving that these actions are just, reasonable, and in the public interest on the applicant company when they involve Connecticut utilities.

The bill expands the ability of DPUC and the Office of Consumer Counsel (OCC) to retain consultants to help in proceedings before federal agencies. By law, the affected utility or other DPUC-regulated company bears the costs of the consultants.

The bill also:

1. expands the scope of the winter utility shut-off moratorium law;
2. expands public notice requirements for proposed rate changes;
3. modifies hearing requirements for several rate adjustment mechanisms;
4. requires the banking commissioner to set the minimum interest rate to be paid on the security deposits paid to utilities, competitive telecommunications companies, and competitive electric suppliers; and
5. gives DPUC 90, rather than 30, business days to issue a preliminary finding after receiving a complaint of retaliation against an employee for making a whistle-blowing complaint about a utility or a related company.

The bill also requires DPUC to establish, by administrative proceedings rather than regulations, performance standards and reporting requirements for telephone companies providing certain wholesale services to the companies with whom they compete. But it prohibits DPUC from adopting the standards and reporting requirements if the telephone company offers performance standards and measures to their competitors who obtain services under federal law.

EFFECTIVE DATE: Upon passage, except that the holding company provisions are effective October 1, 2007 and the consultant provisions are effective July 1, 2007

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 goals. The bill defines "gas company affiliate" as an entity or class of entities that (1) is under the control of a gas company holding 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. By law, "holding company" is an entity that by itself or with others controls a utility. Control means to (1) be able to direct the management of the utility or another holding company through its ownership of shares or to (2) have the ability to change the utility's or holding company's board of directors. Under the law, a holding company is presumed 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.

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 written 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 cannot prohibit communications needed to restore gas service or prevent or respond to emergencies.

INVESTIGATORY POWERS REGARDING GAS COMPANY AFFILIATES

The bill allows DPUC to:

1. summon witnesses from an affiliate with which a gas 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.

Each gas company must submit to DPUC records and information on 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.

ELECTRIC BROKERS

The bill gives DPUC jurisdiction over electric brokers. It defines a broker as a person, municipality, regional water authority, or the Connecticut Resources Recovery Authority (CRRRA), if the authority arranges or acts as an agent, negotiator, or intermediary in buying or selling electric power between an end use customer and any electric supplier, but does not take title to any of the power sold. To be considered a broker, (1) the entity cannot be engaged in the actual purchase and resale of power and (2) the customer must contract for

power directly with an electric supplier or the Connecticut Municipal Electric Energy Cooperative. The registration requirement does not apply to municipalities, regional water authorities, or CRRA acting as a broker under certain conditions, such as brokering power sales for customers in their boundaries.

The bill requires brokers to register with DPUC and meet the same conditions as electric aggregators (entities that group customers together to make them more attractive to suppliers). Among other things, an applicant for registration must provide DPUC with information on its corporate structure and disclose whether it or its affiliates or officers have been or are under investigation for violations of consumer protection laws. It requires brokers to comply with the Connecticut Unfair Trade Practices Act and the National Labor Relations Act as a condition of maintaining registration, as is currently the case for aggregators. It subjects brokers that fail to comply with registration conditions or violate applicable laws to civil penalties, registration suspension or revocation, or prohibition on accepting new customers, as is currently the case for aggregators.

By law, a registration application for electric aggregators must contain information about the applicant's corporate structure. The bill requires that this information include the names and background information regarding corporate affiliates, rather than financial names and statements of these affiliates for both aggregators and brokers.

The bill allows a DPUC-licensed electric supplier to act as a broker or aggregator without registering as one.

HOLDING COMPANIES

Under the bill, when DPUC holds a hearing involving the formation or change of control of a utility holding company that involves a Connecticut utility, the applicant company or utility has the burden of proving that the action is just and reasonable and in the public interest. By law, a utility already has the burden of proving that (1) a proposed rate change is just and reasonable and (2) a transfer of ownership of

assets or a utility's franchise is in the public interest. The bill (1) extends the just and reasonable standard to transfers of assets and franchises and (2) extends the burden of proof to the applicant company, if it is not a utility.

By law, DPUC can set terms and conditions it considers necessary when it approves (1) one utility gaining control over another utility, (2) the formation of a utility holding company, and (3) a change in control of a utility holding company on terms DPUC considers necessary or appropriate. The bill specifically allows DPUC to condition such approvals on orders that require a rate reduction or sharing of merger-related savings between ratepayers and shareholders.

CONSULTANTS

Under current law, the attorney general, at the request of DPUC or OCC, can retain outside legal counsel to participate in proceedings before several federal agencies or in appeals of these proceedings. Both agencies can seek assistance for proceedings before the U.S. Department of Energy, Federal Energy Regulatory Commission, and Nuclear Regulatory commission. OCC can also seek assistance proceeding before the Securities and Exchange Commission, Federal Trade Commission, U.S. Department of Justice, or Federal Communications Commission.

The bill instead allows the agencies to directly retain any type of consultants in any area where they do not have staff expertise or when necessary to supplement agency staff. It allows DPUC to retain consultants to appear before all of the federal agencies as OCC currently can. It eliminates a prohibition on OCC consultants engaging in lobbying, as defined by federal law.

Under current law, the expenses of the consultants cannot exceed \$250,000 annually per proceeding, including appeals. In the case of DPUC consultants, DPUC can exceed this cap for good cause, after notifying the affected companies of its intent to exceed the limit and providing an opportunity to comment. The bill extends this provision

to OCC consultants, based on DPUC's determination of good cause.

Under current law, the reasonable and proper expenses of the legal consultants must be borne by the utilities, certified telecommunication providers, electric suppliers, or gas marketers affected by the proceedings. The expenses must be allocated among the affected companies in proportion to each company's revenue, as reported to DPUC for purposes of its assessment. The expenses must be paid when and how DPUC directs. The bill expands these provisions to all types of consultants.

WINTER MORATORIUM

The law prohibits electric companies, municipal electric utilities, and electric suppliers from terminating residential service to hardship customers from November 1 to April 15. The bill additionally prohibits them from denying service to such customers during this period. By law, hardship customers include those whose sole source of income is Social Security or unemployment compensation and those with a seriously ill household member.

RATE CHANGE NOTICE

By law, utilities must mail their customers notice of a proposed rate change at least one week before DPUC holds a hearing on the proposal. The bill requires that this notice be sent no more than four weeks before the hearing. In addition to the information already required to be in the notice, the bill requires that the notice include (1) the date, time, and location of the hearing and (2) a statement that customers can provide written comments to DPUC on the proposal or appear at the hearing.

RATE ADJUSTMENT MECHANISMS

By law, DPUC can adopt mechanisms to adjust electric and gas rates between rate cases to reflect changes in certain specific costs. Two mechanisms (the energy adjustment and transmission clauses) adjust electric rates. The purchased gas adjustment (PGA) clause applies to gas companies.

Under current law, DPUC must hold a hearing on each of these clauses at least once every six months or when it considers a hearing necessary. The bill additionally requires DPUC to hold a hearing at the request of the Office of Consumer Counsel. It requires DPUC to hold a hearing on the PGA at least annually rather than once every six months.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/13/2007)