



# House of Representatives

General Assembly

**File No. 298**

February Session, 2008

Substitute House Bill No. 5598

*House of Representatives, March 31, 2008*

The Committee on Energy and Technology reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, 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. (NEW) (*Effective from passage*) (a) As used in this section,  
2 "affiliate" means a person, as defined in section 16-1 of the 2008  
3 supplement to general statutes, as amended by this act, or class of  
4 persons that, with a gas company, as defined in section 16-1 of the 2008  
5 supplement to the general statutes, as amended by this act, is under  
6 the control of the same holding company, or a person or class of  
7 persons that the Department of Public Utility Control determines to  
8 stand in such relation to a gas company that there is liable to be an  
9 absence of arm's length bargaining in transactions between them as to  
10 make it necessary to protect ratepayers.

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

14 (1) Provide rules for when the purchases or sales of goods or  
15 services between a gas company and an affiliate should be by written  
16 contract based on such factors as the nature, value and term of the  
17 purchase or sale;

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

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

23 (4) Establish standards to ensure that any payment by a gas  
24 company to any affiliate or from any affiliate to a gas company is  
25 appropriate and reasonable;

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

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

32 (7) Ensure that gas company ratepayers do not subsidize affiliate  
33 operations;

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

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

41 (c) In addition to the powers granted to the department in section  
42 16-8c of the general statutes, during a rate proceeding under 16-19 of

43 the general statutes, as amended by this act, the department may  
44 summon witnesses from an affiliate with which a gas company has  
45 had direct or indirect transactions, examine the affiliate under oath and  
46 order production, inspect and audit the books, records or other  
47 information relevant to any transaction that the department has reason  
48 to believe has or will have an adverse impact on the costs and revenues  
49 of the affiliated gas company. Proprietary commercial and proprietary  
50 financial information of an affiliate provided pursuant to this section  
51 shall be confidential and protected by the department as the  
52 department deems appropriate, subject to the provisions of section 1-  
53 210 of the general statutes.

54 (d) Each gas company shall submit to the department records and  
55 such information as the department may require, at intervals  
56 determined by the department and in such form as the department  
57 may order regarding affiliate transactions.

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

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

66 (g) The code of conduct shall not prohibit communications  
67 necessary to restore gas company service or to prevent or respond to  
68 emergency conditions.

69 (h) On or before November 1, 2008, the department shall adopt  
70 regulations, in accordance with the provisions of chapter 54 of the  
71 general statutes, to establish the code of conduct in accordance with  
72 subsection (b) of this section, related accounting and reporting  
73 requirements and procedures for gas company and affiliate  
74 compliance with this section.

75 (i) Any methodology for the allocation of costs between a gas  
76 company and other companies under the control of the same holding  
77 company currently approved by, or under current orders issued by,  
78 the Securities and Exchange Commission under the Public Utility  
79 Holding Company Act of 1935 or the Federal Energy Regulatory  
80 Commission under the Public Utility Holding Company Act of 2005,  
81 shall be entitled to a rebuttable presumption of reasonableness.  
82 Charges rendered to a gas company by an affiliate that is a traditional  
83 centralized service company shall be at cost and entitled to a rebuttable  
84 presumption of reasonableness.

85 Sec. 2. Subsection (h) of section 16-19b of the general statutes is  
86 repealed and the following is substituted in lieu thereof (*Effective from*  
87 *passage*):

88 (h) The Department of Public Utility Control shall continually  
89 monitor and oversee the application of the purchased gas adjustment  
90 clause, the energy adjustment clause, and the transmission rate  
91 adjustment clause. [The] For the energy adjustment and transmission  
92 adjustment clauses, the department shall hold a public hearing thereon  
93 whenever the department deems it necessary or upon application of  
94 the Office of Consumer Counsel, but no less frequently than once  
95 every six months. [, and] For the purchased gas adjustment clause, the  
96 department shall hold a public hearing thereon whenever the  
97 department deems it necessary or upon application of the Office of  
98 Consumer Counsel, but no less frequently than annually. The  
99 department shall undertake such other proceeding thereon to  
100 determine whether charges or credits made under such clauses reflect  
101 the actual prices paid for purchased gas or energy and the actual  
102 transmission costs and are computed in accordance with the applicable  
103 clause. If the department finds that such charges or credits do not  
104 reflect the actual prices paid for purchased gas or energy, and the  
105 actual transmission costs or are not computed in accordance with the  
106 applicable clause, it shall recompute such charges or credits and shall  
107 direct the company to take such action as may be required to insure  
108 that such charges or credits properly reflect the actual prices paid for

109 purchased gas or energy and the actual transmission costs and are  
110 computed in accordance with the applicable clause for the applicable  
111 period.

112 Sec. 3. Subsection (a) of section 16-19 of the general statutes is  
113 repealed and the following is substituted in lieu thereof (*Effective from*  
114 *passage*):

115 (a) No public service company may charge rates in excess of those  
116 previously approved by the authority or the Department of Public  
117 Utility Control except that any rate approved by the Public Utilities  
118 Commission or the authority shall be permitted until amended by the  
119 authority or the department, that rates not approved by the authority  
120 or the department may be charged pursuant to subsection (b) of this  
121 section, and that the hearing requirements with respect to adjustment  
122 clauses are as set forth in section 16-19b, as amended by this act. Each  
123 public service company shall file any proposed amendment of its  
124 existing rates with the department in such form and in accordance  
125 with such reasonable regulations as the department may prescribe.  
126 Each electric, electric distribution, gas or telephone company filing a  
127 proposed amendment shall also file with the department an estimate  
128 of the effects of the amendment, for various levels of consumption, on  
129 the household budgets of high and moderate income customers and  
130 customers having household incomes not more than one hundred fifty  
131 per cent of the federal poverty level. Each electric and electric  
132 distribution company shall also file such an estimate for space heating  
133 customers. Each water company, except a water company that  
134 provides water to its customers less than six consecutive months in a  
135 calendar year, filing a proposed amendment, shall also file with the  
136 department a plan for promoting water conservation by customers in  
137 such form and in accordance with a memorandum of understanding  
138 entered into by the department pursuant to section 4-67e. Each public  
139 service company shall notify each customer who would be affected by  
140 the proposed amendment, by mail, at least one week prior to the  
141 public hearing thereon but no earlier than four weeks prior to the start  
142 of the public hearing, that an amendment has been or will be

143 requested. Such notice shall also indicate (1) the [Department of Public  
144 Utility Control] date or dates, time or times and location or locations of  
145 the scheduled public hearing, (2) that customers may provide  
146 comments regarding the proposed rate request by writing to the  
147 Department of Public Utility Control or by appearing in person at one  
148 of the scheduled public hearings, (3) the department's telephone  
149 number for obtaining information concerning the schedule for public  
150 hearings on the proposed amendment, and [(2)] (4) whether the  
151 proposed amendment would, in the company's best estimate, increase  
152 any rate or charge by twenty per cent or more, and, if so, describe in  
153 general terms any such rate or charge and the amount of the proposed  
154 increase, provided no such company shall be required to provide more  
155 than one form of the notice to each class of its customers. In the case of  
156 a proposed amendment to the rates of any public service company, the  
157 department shall hold a public hearing thereon, except as permitted  
158 with respect to interim rate amendments by subsection (d) and  
159 subsection (g) of this section, and shall make such investigation of such  
160 proposed amendment of rates as is necessary to determine whether  
161 such rates conform to the principles and guidelines set forth in section  
162 16-19e, or are unreasonably discriminatory or more or less than just,  
163 reasonable and adequate, or that the service furnished by such  
164 company is inadequate to or in excess of public necessity and  
165 convenience. The department, if in its opinion such action appears  
166 necessary or suitable in the public interest may, and, upon written  
167 petition or complaint of the state, under direction of the Governor,  
168 shall, make the aforesaid investigation of any such proposed  
169 amendment which does not involve an alteration in rates. If the  
170 department finds any proposed amendment of rates to not conform to  
171 the principles and guidelines set forth in section 16-19e, or to be  
172 unreasonably discriminatory or more or less than just, reasonable and  
173 adequate to enable such company to provide properly for the public  
174 convenience, necessity and welfare, or the service to be inadequate or  
175 excessive, it shall determine and prescribe, as appropriate, an adequate  
176 service to be furnished or just and reasonable maximum rates and  
177 charges to be made by such company. In the case of a proposed

178 amendment filed by an electric, electric distribution, gas or telephone  
179 company, the department shall also adjust the estimate filed under this  
180 subsection of the effects of the amendment on the household budgets  
181 of the company's customers, in accordance with the rates and charges  
182 approved by the department. The department shall issue a final  
183 decision on each rate filing within one hundred fifty days from the  
184 proposed effective date thereof, provided it may, before the end of  
185 such period and upon notifying all parties and intervenors to the  
186 proceedings, extend the period by thirty days.

187 Sec. 4. Section 16-6a of the general statutes is repealed and the  
188 following is substituted in lieu thereof (*Effective July 1, 2008*):

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

193 [(b) For any proceeding before the Federal Energy Regulatory  
194 Commission, the United States Department of Energy or the United  
195 States Nuclear Regulatory Commission, or appeal thereof, the  
196 Attorney General, upon request of the department, may retain outside  
197 legal counsel in accordance with section 3-125 to participate in such  
198 proceedings on behalf of the department. All reasonable and proper  
199 expenses of such outside legal counsel shall be borne by the public  
200 service companies, certified telecommunications providers, electric  
201 suppliers or gas registrants that are affected by the decisions of such  
202 proceedings and shall be paid at such times and in such manner as the  
203 department directs, provided such expenses shall be apportioned in  
204 proportion to the revenues of each affected entity as reported to the  
205 department for purposes of section 16-49 for the most recent period,  
206 and provided further such expenses shall not exceed two hundred fifty  
207 thousand dollars per proceeding, including any appeals thereof, in any  
208 calendar year unless the department finds good cause for exceeding  
209 the limit and the affected entities have an opportunity, after reasonable  
210 notice, to comment on the proposed overage. All such legal expenses

211 shall be recognized by the department as proper business expenses of  
212 the affected entities for rate-making purposes, as provided in section  
213 16-19e, if applicable.

214 (c) For any proceeding before the Federal Energy Regulatory  
215 Commission, the United States Department of Energy, the United  
216 States Nuclear Regulatory Commission, the Securities and Exchange  
217 Commission, the Federal Trade Commission, the United States  
218 Department of Justice or the Federal Communications Commission, or  
219 appeal thereof, the Attorney General, upon request of the Office of  
220 Consumer Counsel, may retain outside legal counsel in accordance  
221 with section 3-125 to participate in such proceedings on behalf of the  
222 office, provided the work performed on behalf of the office shall not  
223 include lobbying activities, as defined in 2 USC 1602. All reasonable  
224 and proper expenses of such outside legal counsel shall be borne by  
225 the public service companies, certified telecommunications providers,  
226 electric suppliers or gas registrants that are affected by the decisions of  
227 such proceedings and shall be paid at such times and in such manner  
228 as the office directs, provided such expenses shall be apportioned in  
229 proportion to the revenues of each affected entity as reported to the  
230 department for purposes of section 16-49 for the most recent period,  
231 and provided further such expenses shall not exceed two hundred fifty  
232 thousand dollars, including any appeals thereof, in any calendar year.  
233 The Department of Public Utility Control shall recognize all such legal  
234 expenses as proper business expenses of the affected entities for rate-  
235 making purposes, as provided in section 16-19e, if applicable.]

236 (b) For any proceeding before the Federal Energy Regulatory  
237 Commission, the United States Department of Energy, the United  
238 States Nuclear Regulatory Commission, the United States Securities  
239 and Exchange Commission, the Federal Trade Commission, the United  
240 States Department of Justice or the Federal Communications  
241 Commission, the Department of Public Utility Control and the Office  
242 of Consumer Counsel may retain consultants to assist their respective  
243 staffs in such proceedings by providing expertise in areas in which  
244 staff expertise does not currently exist or when necessary to

245 supplement staff expertise. All reasonable and proper expenses of such  
246 expert consultants shall be borne by the public service companies,  
247 certified telecommunications providers, electric suppliers or gas  
248 registrants that are affected by the decisions of such proceedings and  
249 shall be paid at such times and in such manner as the department  
250 directs, provided such expenses (1) shall be apportioned in proportion  
251 to the revenues of each affected entity as reported to the department  
252 for purposes of section 16-49 for the most recent period, and (2) shall  
253 not exceed two hundred fifty thousand dollars per proceeding,  
254 including any appeals thereof, in any calendar year unless the  
255 department finds good cause for exceeding the limit. All such expenses  
256 shall be recognized by the department as proper business expenses of  
257 the affected entities for rate-making purposes pursuant to section 16-  
258 19e, if applicable.

259       Sec. 5. Subsection (c) of section 16-262j of the general statutes is  
260 repealed and the following is substituted in lieu thereof (*Effective from*  
261 *passage*):

262       (c) Each public service company, certified telecommunications  
263 provider and electric supplier shall pay interest on any security  
264 deposit it receives from a customer at the average rate paid, as of  
265 December 30, 1992, on savings deposits by insured commercial banks  
266 as published in the Federal Reserve Board bulletin and rounded to the  
267 nearest one-tenth of one percentage point, except in no event shall the  
268 rate be less than one and one-half per cent. On and after January 1,  
269 1994, the rate for each calendar year shall be not less than the deposit  
270 index as defined and determined by the Banking Commissioner in  
271 subsection (d) of this section, for that year and rounded to the nearest  
272 one-tenth of one percentage point, except in no event shall the rate be  
273 less than one and one-half per cent.

274       Sec. 6. Subsection (c) of section 16-8a of the general statutes is  
275 repealed and the following is substituted in lieu thereof (*Effective from*  
276 *passage*):

277       (c) (1) Not more than [thirty] ninety business days after receipt of a

278 written complaint, in a form prescribed by the department, by an  
279 employee alleging the employee's employer has retaliated against an  
280 employee in violation of subsection (a) of this section, the department  
281 shall make a preliminary finding in accordance with this subsection.

282 (2) Not more than five business days after receiving a written  
283 complaint, in a form prescribed by the department, the department  
284 shall notify the employer by certified mail. Such notification shall  
285 include a description of the nature of the charges and the substance of  
286 any relevant supporting evidence. The employer may submit a written  
287 response and both the employer and the employee may present  
288 rebuttal statements in the form of affidavits from witnesses and  
289 supporting documents and may meet with the department informally  
290 to respond verbally about the nature of the employee's charges. The  
291 department shall consider in making its preliminary finding as  
292 provided in subdivision (3) of this subsection any such written and  
293 verbal responses, including affidavits and supporting documents,  
294 received by the department not more than twenty business days after  
295 the employer receives such notice. Any such response received after  
296 twenty business days shall be considered by the department only upon  
297 a showing of good cause and at the discretion of the department. The  
298 department shall make its preliminary finding as provided in  
299 subdivision (3) of this subsection based on information described in  
300 this subdivision, without a public hearing.

301 (3) Unless the department finds by clear and convincing evidence  
302 that the adverse employment action was taken for a reason  
303 unconnected with the employee's report of substantial misfeasance,  
304 malfeasance or nonfeasance, there shall be a rebuttable presumption  
305 that an employee was retaliated against in violation of subsection (a) of  
306 this section if the department finds that: (A) The employee had  
307 reported substantial misfeasance, malfeasance or nonfeasance in the  
308 management of the public service company, holding company or  
309 licensee; (B) the employee was subsequently discharged, suspended,  
310 demoted or otherwise penalized by having the employee's status of  
311 employment changed by the employee's employer; and (C) the

312 subsequent discharge, suspension, demotion or other penalty followed  
313 the employee's report closely in time.

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

319 Sec. 7. Subdivision (30) of subsection (a) of section 16-1 of the 2008  
320 supplement to the general statutes is repealed and the following is  
321 substituted in lieu thereof (*Effective from passage*):

322 (30) "Electric supplier" means any person [, including an electric  
323 aggregator] or participating municipal electric utility that is licensed  
324 by the Department of Public Utility Control in accordance with section  
325 16-245, [that] as amended by this act, and provides electric generation  
326 services to end use customers in the state using the transmission or  
327 distribution facilities of an electric distribution company, regardless of  
328 whether or not such person takes title to such generation services, but  
329 does not include: (A) A municipal electric utility established under  
330 chapter 101, other than a participating municipal electric utility; (B) a  
331 municipal electric energy cooperative established under chapter 101a;  
332 (C) an electric cooperative established under chapter 597; (D) any other  
333 electric utility owned, leased, maintained, operated, managed or  
334 controlled by any unit of local government under any general statute  
335 or special act; or (E) an electric distribution company in its provision of  
336 electric generation services in accordance with subsection (a) or, prior  
337 to January 1, 2004, subsection (c) of section 16-244c.

338 Sec. 8. Subdivision (31) of subsection (a) of section 16-1 of the 2008  
339 supplement to the general statutes is repealed and the following is  
340 substituted in lieu thereof (*Effective from passage*):

341 (31) "Electric aggregator" means [(A) a person, municipality or  
342 regional water authority that] any person, municipality, regional water  
343 authority or the Connecticut Resource Recovery Authority, if such

344 entity gathers together electric customers for the purpose of  
345 negotiating the purchase of electric generation services from an electric  
346 supplier, [or (B) the Connecticut Resources Recovery Authority, if it  
347 gathers together electric customers for the purpose of negotiating the  
348 purchase of electric generation services from an electric supplier,]  
349 provided such [person, municipality or authority] entity is not  
350 engaged in the purchase or resale of electric generation services, and  
351 provided further such customers contract for electric generation  
352 services directly with an electric supplier, and may include an electric  
353 cooperative established pursuant to chapter 597.

354 Sec. 9. Subsection (a) of section 16-1 of the 2008 supplement to the  
355 general statutes is amended by adding subdivision (50) as follows  
356 (*Effective from passage*):

357 (NEW) (50) "Electric broker" means any person, municipality,  
358 regional water authority or the Connecticut Resources Recovery  
359 Authority, if such entity arranges or acts as an agent, negotiator or  
360 intermediary in the sale or purchase of electric generation services  
361 between any end-use customer in the state and any electric supplier,  
362 but does not take title to any of the generation services sold, provided  
363 (A) such entity is not engaged in the purchase and resale of electric  
364 generation services, and (B) such customer contracts for electric  
365 generation services directly with an electric supplier, and may include  
366 an electric cooperative established pursuant to chapter 597.

367 Sec. 10. Subsection (l) of section 16-245 of the general statutes is  
368 repealed and the following is substituted in lieu thereof (*Effective from*  
369 *passage*):

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

372 (2) No electric aggregator or electric broker shall arrange or  
373 negotiate a contract for the purchase of electric generation services  
374 from an electric supplier unless such aggregator or electric broker has  
375 [(A)] obtained a certificate of registration from the Department of

376 Public Utility Control in accordance with this subsection. [ or (B) in the  
377 case of a municipality, regional water authority and the Connecticut  
378 Resources Recovery Authority, registered in accordance with section  
379 16-245b.] An electric aggregator that was licensed pursuant to this  
380 section prior to July 1, 2003, shall receive a certificate of registration on  
381 July 1, 2003. An entity that has been issued an electric supplier license  
382 by the Department of Public Utility Control pursuant to subsections (a)  
383 to (k), inclusive, of this section may act as an electric aggregator or  
384 electric broker without having to obtain a certificate of registration in  
385 accordance with this subsection.

386 (3) An application for a certificate of registration shall be filed with  
387 the department, accompanied by a fee as determined by the  
388 department. The application shall contain such information as the  
389 department may deem relevant, including, but not limited to, the  
390 following: (A) The address of the applicant's headquarters and the  
391 articles of incorporation, if applicable, as filed with the state in which  
392 the applicant is incorporated; (B) the address of the applicant's  
393 principal office in the state, if any, or the address of the applicant's  
394 agent for service in the state; (C) the toll-free or in-state telephone  
395 number of the applicant; (D) information about the applicant's  
396 corporate structure, if applicable, including [financial names and  
397 financial statements, as relevant, concerning] names and background  
398 information of corporate affiliates; (E) disclosure of whether the  
399 applicant or any of the applicant's corporate affiliates or officers, if  
400 applicable, have been or are currently under investigation for violation  
401 of any consumer protection law or regulation to which it is subject,  
402 either in this state or in another state. Each registered electric  
403 aggregator or electric broker shall update the information contained in  
404 this subdivision as necessary.

405 (4) Not more than thirty days after receiving an application for a  
406 certificate of registration, the department shall notify the applicant  
407 whether the application is complete or whether the applicant must  
408 submit additional information. The department shall grant or deny the  
409 application for a certificate of registration not more than ninety days

410 after receiving all information required of an applicant. The  
411 department shall hold a public hearing on an application upon the  
412 request of any interested party.

413 (5) As a condition for maintaining a certificate of registration, the  
414 registered electric aggregator or electric broker shall ensure that, where  
415 applicable, it complies with the National Labor Relations Act and  
416 regulations, if applicable, and it complies with the Connecticut Unfair  
417 Trade Practices Act and applicable regulations.

418 (6) Any registered electric aggregator or electric broker that fails to  
419 comply with a registration condition or violates any provision of this  
420 section shall be subject to civil penalties by the Department of Public  
421 Utility Control in accordance with the procedures contained in section  
422 16-41, or the suspension or revocation of such registration, or a  
423 prohibition on accepting new customers following a hearing that is  
424 conducted as a contested case in accordance with the provisions of  
425 chapter 54.

426 Sec. 11. Section 16-245b of the general statutes is repealed and the  
427 following is substituted in lieu thereof (*Effective from passage*):

428 Notwithstanding the provisions of subsection (a) of section 16-245,  
429 the provisions of said section shall not apply to (1) any municipality or  
430 regional water authority that aggregates or brokers the sale of electric  
431 generation services, or to the Connecticut Resources Recovery  
432 Authority if such authority aggregates or brokers the sale of electric  
433 generation services, for end use customers located within the  
434 boundaries of such municipality or regional water authority, (2) any  
435 municipality that joins together with other municipalities to aggregate  
436 or broker the sale of electric generation services for end use customers  
437 located within the boundaries of such municipalities, or (3) any  
438 municipality or regional water authority that aggregates or brokers the  
439 purchase of electric generation services for municipal facilities, street  
440 lighting, boards of education and other publicly-owned facilities  
441 within (A) the municipality for which the municipality is financially  
442 responsible, or (B) the municipalities that are within the authorized

443 service area of the regional water authority. Any municipality or  
444 regional water authority that aggregates or brokers in accordance with  
445 this section shall register not less than annually with the Department  
446 of Public Utility Control on a form prescribed by the department.

447 Sec. 12. Subsection (b) of section 16-245p of the general statutes is  
448 repealed and the following is substituted in lieu thereof (*Effective from*  
449 *passage*):

450 (b) The Department of Public Utility Control shall maintain and  
451 make available to customers upon request, a list of electric aggregators  
452 and electric brokers and the following information about each electric  
453 supplier and each electric distribution company providing standard  
454 service or back-up electric generation service, pursuant to section 16-  
455 244c: (1) Rates and charges; (2) applicable terms and conditions of a  
456 contract for electric generation services; (3) the percentage of the total  
457 electric output derived from each of the categories of energy sources  
458 provided in subsection (e) of section 16-244d, the total emission rates  
459 of nitrogen oxides, sulfur oxides, carbon dioxide, carbon monoxide,  
460 particulates, heavy metals and other wastes the disposal of which is  
461 regulated under state or federal law at the facilities operated by or  
462 under long-term contract to the electric supplier or providing electric  
463 generation services to an electric distribution company providing  
464 standard service or back-up electric generation service, pursuant to  
465 section 16-244c, and the analysis of the environmental characteristics of  
466 each such category of energy source prepared pursuant to subsection  
467 (e) of [said] section 16-244d and to the extent such information is  
468 unknown, the estimated percentage of the total electric output for  
469 which such information is unknown, along with the word "unknown"  
470 for that percentage; (4) a record of customer complaints and the  
471 disposition of each complaint; and (5) any other information the  
472 department determines will assist customers in making informed  
473 decisions when choosing an electric supplier. The department shall  
474 make available to customers the information filed pursuant to  
475 subsection (a) of this section not later than thirty days after its receipt.  
476 The department shall put such information in a standard format so

477 that a customer can readily understand and compare the services  
478 provided by each electric supplier.

479 Sec. 13. Subdivision (19) of subsection (a) of section 22a-266 of the  
480 general statutes is repealed and the following is substituted in lieu  
481 thereof (*Effective from passage*):

482 (19) Act as an electric supplier, [or] an electric aggregator or an  
483 electric broker pursuant to public act 98-28\* provided any net revenue  
484 to the authority from activities, contracts, products or processes  
485 undertaken pursuant to this subdivision, after payment of principal  
486 and interest on bonds and repayment of any loans or notes of the  
487 authority, shall be distributed so as to reduce the costs of other  
488 authority services to the users thereof on a pro rata basis proportionate  
489 to costs paid by such users. In acting as an electric supplier, [or an]  
490 electric aggregator or electric broker pursuant to any license granted  
491 by the Department of Public Utility Control, the authority may enter  
492 into contracts for the purchase and sale of electricity and electric  
493 generation services, provided such contracts are solely for the  
494 purposes of ensuring the provision of safe and reliable electric service  
495 and protecting the position of the authority with respect to capacity  
496 and price.

497 Sec. 14. Subsection (c) of section 7-148ee of the general statutes is  
498 repealed and the following is substituted in lieu thereof (*Effective from*  
499 *passage*):

500 (c) No corporation established pursuant to subsection (a) of this  
501 section shall engage in the manufacture, distribution, purchase or sale,  
502 or any combination thereof, of electricity, gas or water outside the  
503 service area of such municipal electric or gas utility or within its  
504 service area if it encroaches upon the service area or franchise area of  
505 another water or gas utility. Nothing in this section shall be construed  
506 to permit any municipal electric utility to engage in the sale, [or]  
507 aggregation or brokering of electric generation services other than  
508 pursuant to section 16-245, as amended by this act.

509 Sec. 15. Subsection (b) of section 33-219 of the general statutes is  
510 repealed and the following is substituted in lieu thereof (*Effective from*  
511 *passage*):

512 (b) Notwithstanding the provisions of subsection (a) of this section,  
513 cooperative, nonprofit, membership corporations may be organized  
514 under this chapter for the purpose of generating electric energy by  
515 means of cogeneration technology, renewable energy resources or both  
516 and supplying it to any member or supplying it to, purchasing it from  
517 or exchanging it with a public service company, electric supplier, [as  
518 defined in section 16-1,] municipal aggregator, [as defined in said  
519 section] electric broker, municipal utility or municipal electric energy  
520 cooperative, all as defined in section 16-1 of the 2008 supplement to the  
521 general statutes, as amended by this act, in accordance with an  
522 agreement with the company, electric supplier, electric aggregator,  
523 electric broker, municipal utility or cooperative. No membership  
524 corporation under this subsection may exercise those powers  
525 contained in subsection (i) or (j) of section 33-221 unless the prior  
526 approval of the Department of Public Utility Control is obtained, after  
527 opportunity for hearing in accordance with title 16 and chapter 54.  
528 Any cooperative organized on or after July 1, 1998, pursuant to this  
529 subsection shall collect from its members the competitive transition  
530 assessment levied pursuant to section 16-245g and the systems benefits  
531 charge levied pursuant to section 16-245l in such manner and at such  
532 rate as the Department of Public Utility Control prescribes, provided  
533 the department shall order the collection of said assessment and said  
534 charge in a manner and rate equal to that to which the members of the  
535 cooperative would have been subject had the cooperative not been  
536 organized.

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

539 (a) Not later than April 1, 2000, the Department of Public Utility  
540 Control shall, by regulations adopted pursuant to chapter 54, establish  
541 quality-of-service standards that shall apply to all telephone

542 companies and certified telecommunications providers and to all  
543 telecommunications services. Such standards shall include, but not be  
544 limited to, measures relating to customer trouble reports, service  
545 outages, installation appointments and repeat problems as well as  
546 timeliness in responding to complaints or reports. The department  
547 shall include with the quality of service standards methodologies for  
548 monitoring compliance with and enforcement of such standards. Such  
549 monitoring shall include input from employees of telephone  
550 companies and certified telecommunications providers, including  
551 members of collective bargaining units.

552 (b) [Not later than April 1, 2000, the] The department shall, [by  
553 regulations adopted pursuant to chapter 54] through administrative  
554 proceedings, establish comprehensive performance standards and  
555 performance based reporting requirements for functions provided by a  
556 telephone company to a certified telecommunications provider,  
557 including, but not limited to, telephone company performance relating  
558 to customer ordering, preordering, provisioning, billing, maintenance  
559 and repair. Such service standards shall be sufficiently comprehensive  
560 to ensure that a telephone company meets its obligations under 47  
561 USC 251. Such [regulations] standards may also contain provisions the  
562 department deems necessary to prevent anticompetitive actions by any  
563 telephone company or certified telecommunications provider.

564 (c) Notwithstanding subsection (b) of this section, the department  
565 shall not establish performance standards and performance-based  
566 reporting requirements pursuant to subsection (b) of this section for  
567 any telephone company that offers performance standards and  
568 measures to competitive local exchange carriers who obtain services  
569 pursuant to 47 USC 251.

570 Sec. 17. Section 16-2 of the 2008 supplement to the general statutes is  
571 amended by adding subsection (l) as follows (*Effective from passage*):

572 (NEW) (l) The chairperson may assign one or more commissioners  
573 to serve as a director on the board of a not-for-profit corporation  
574 created to facilitate a regional state initiative, including, but not limited

575 to, working on issues of climate change and the reduction of  
 576 greenhouse gas emissions, and perform the duties of such director, if  
 577 such participation is deemed necessary to insure the maintenance of  
 578 fair and reasonable pricing and reliability by public service companies  
 579 affected by said initiative.

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>	16-19b(h)
Sec. 3	<i>from passage</i>	16-19(a)
Sec. 4	<i>July 1, 2008</i>	16-6a
Sec. 5	<i>from passage</i>	16-262j(c)
Sec. 6	<i>from passage</i>	16-8a(c)
Sec. 7	<i>from passage</i>	16-1(a)(30)
Sec. 8	<i>from passage</i>	16-1(a)(31)
Sec. 9	<i>from passage</i>	16-1(a)
Sec. 10	<i>from passage</i>	16-245(l)
Sec. 11	<i>from passage</i>	16-245b
Sec. 12	<i>from passage</i>	16-245p(b)
Sec. 13	<i>from passage</i>	22a-266(a)(19)
Sec. 14	<i>from passage</i>	7-148ee(c)
Sec. 15	<i>from passage</i>	33-219(b)
Sec. 16	<i>from passage</i>	16-247p
Sec. 17	<i>from passage</i>	16-2

**ET**            *Joint Favorable Subst.*

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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:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

This bill requires the Department of Public Utility Control (DPUC) to establish a code of conduct regarding transactions between gas companies and their affiliates. This bill also expands the ability of DPUC and the Office of the Consumer Counsel to retain consultants. There is no fiscal impact associated with this bill.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sHB 5598*****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 minimum standards for transactions between gas companies and their affiliates. The bill 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, 2008 establishing the code and related accounting and reporting requirements and procedures.

The bill requires electric brokers to register with DPUC and comply with the same laws as apply to electric aggregations. "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.

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 public notice requirements for proposed rate changes;
2. modifies hearing requirements for several rate adjustment mechanisms;

3. 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
4. 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 for any telephone company offers performance standards and measures to their competitors who obtain services under federal law.

Finally, the bill allows the DPUC chairperson to assign one or more DPUC commissioners to serve as a director or directors on the board of a nonprofit corporation created to facilitate a regional state initiative, including working on issues of climate change and the reduction of greenhouse gas emissions. It allows the commissioner to perform the duties of the director, if such participation is necessary to insure the maintenance of fair and reasonable pricing and reliability by utility companies affected by the initiative.

EFFECTIVE DATE: Upon passage, except for the provision on consultants, which is effective July 1, 2008

### **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.

The code must set minimum standards for gas company transactions with their affiliates. The code must provide rules:

1. for when the purchases or sales of goods or services between a gas company and an affiliate should be by written contract based on such factors as the nature, value, and term of the purchase or sale and
2. with respect to sharing or giving access to certain types of customer identifying or commercially sensitive information to affiliates that may differ between regulated and unregulated affiliates.

The code must provide for:

1. a system of records and reporting for transactions between a gas company and its affiliates and
2. a standard for avoidance of conflict of interest between a gas company and affiliates;

In addition, the code must ensure:

1. that gas company ratepayers do not subsidize affiliate operations;
2. 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 gas company and its affiliates;
3. that gas supply and distribution services are provided by a gas company in an appropriate manner to affiliates and nonaffiliates alike, and
4. that transactions between the company and its affiliate do not

have an improper and adverse impact on the company's costs or revenue, on the rates and charges paid by its customers, or on the quality of service provided by the company.

Finally, the code must establish standards to ensure that any payment by a gas company to any affiliate or from any affiliate to a gas company is appropriate and reasonable.

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

DPUC may, on its own motion, investigate a gas company's compliance with the code. DPUC must conduct these investigations as a contested case, a quasi-judicial proceeding.

#### **INVESTIGATORY POWERS REGARDING GAS COMPANY AFFILIATES**

The bill allows DPUC, in the course of a rate case, 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.

Proprietary commercial and financial information is subject to the protections of the Freedom of Information Act, as DPUC considers appropriate.

The bill requires any methodology for allocating costs between a gas company and other companies under the control of the same holding company currently approved by, or under current orders issued by, the Securities and Exchange Commission or the Federal Energy Regulatory Commission under relevant federal law to be entitled to a rebuttable presumption of reasonableness. Charges rendered to a gas company by an affiliate that is a traditional centralized service

company must be at cost and entitled to a rebuttable presumption of reasonableness.

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.

## **ELECTRIC BROKERS**

The bill gives DPUC jurisdiction over electric brokers. It defines an electric broker as a person, municipality, regional water authority, the Connecticut Municipal Electric Energy Cooperative, or the Connecticut Resources Recovery Authority (CRRA), 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.

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). 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.

Among other things, an applicant for a certificate or 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, imposed in a contested

proceeding, 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.

### **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. (The bill does not specify whether the consultants can legal counsel). 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 cost allocation provisions to all types of consultants.

### **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

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Yea 21    Nay 0    (03/11/2008)