



General Assembly

February Session, 2008

**Raised Bill No. 5815**

LCO No. 2718

\* \_\_\_\_ HB05815ET \_\_\_\_ 031108 \_\_\_\_ \*

Referred to Committee on Energy and Technology

Introduced by:  
(ET)

**AN ACT CONCERNING THE MISSION OF THE DEPARTMENT OF  
PUBLIC UTILITY CONTROL.**

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

1 Section 1. Section 16-2 of the 2008 supplement to the general statutes  
2 is repealed and the following is substituted in lieu thereof (*Effective*  
3 *from passage*):

4 (a) There shall continue to be a Public Utilities Control Authority,  
5 which shall consist of five electors of this state, appointed by the  
6 Governor with the advice and consent of both houses of the General  
7 Assembly. The mission of said authority shall be to ensure that public  
8 service companies are regulated consistent with the public interest and  
9 provide safe, efficient, high-quality utility services, with responsive  
10 customer service, at the lowest reasonable cost to ratepayers. Not more  
11 than three members of said authority in office at any one time shall be  
12 members of any one political party. On or before July 1, 1983, and  
13 quadrennially thereafter, the Governor shall appoint three members to  
14 the authority and on or before July 1, 1985, and quadrennially  
15 thereafter, the Governor shall appoint two members. All such  
16 members shall serve for a term of four years. The procedure prescribed

17 by section 4-7 of the 2008 supplement to the general statutes shall  
18 apply to such appointments, except that the Governor shall submit  
19 each nomination on or before May first, and both houses shall confirm  
20 or reject it before adjournment sine die. The commissioners shall be  
21 sworn to the faithful performance of their duties.

22 (b) The authority shall elect a chairperson and vice-chairperson each  
23 June for one-year terms starting on July first of the same year. The vice-  
24 chairperson shall perform the duties of the chairperson in his absence.

25 (c) Any matter coming before the authority may be assigned by the  
26 chairperson to a panel of three commissioners, not more than two of  
27 whom shall be members of the same political party. Except as  
28 otherwise provided by statute or regulation, the panel shall determine  
29 whether a public hearing shall be held on the matter, and [may  
30 designate one or two of its members to conduct such hearing or] shall  
31 appoint an examiner to ascertain the facts and report thereon to the  
32 panel. The decision of the panel, if unanimous, shall be the decision of  
33 the authority. If the decision of the panel is not unanimous, the matter  
34 shall be referred to the entire authority for decision.

35 (d) The commissioners of the authority shall serve full time and  
36 shall make full public disclosure of their assets, liabilities and income  
37 at the time of their appointment, and thereafter each member of the  
38 authority shall make such disclosure on or before July thirtieth of each  
39 year of such member's term, and shall file such disclosure with the  
40 office of the Secretary of the State. Each commissioner shall receive  
41 annually a salary equal to that established for management pay plan  
42 salary group seventy-five by the Commissioner of Administrative  
43 Services, except that the chairperson shall receive annually a salary  
44 equal to that established for management pay plan salary group  
45 seventy-seven.

46 (e) To insure the highest standard of public utility regulation, on  
47 and after October 1, 2007, any newly appointed commissioner of the  
48 authority shall have education or training and three or more years of

49 experience in one or more of the following fields: Economics,  
50 engineering, law, accounting, finance, utility regulation, public or  
51 government administration, consumer advocacy, business  
52 management, and environmental management. On and after July 1,  
53 1997, at least three of these fields shall be represented on the authority  
54 by individual commissioners at all times. Any time a commissioner is  
55 newly appointed, at least one of the commissioners shall have  
56 experience in utility customer advocacy.

57 (f) The chairperson of the authority, with the consent of two or more  
58 other members of the authority, shall appoint an executive director,  
59 who shall be the chief administrative officer of the Department of  
60 Public Utility Control. The executive director shall be supervised by  
61 the chairperson of the authority, serve for a term of four years and  
62 annually receive a salary equal to that established for management pay  
63 plan salary group seventy-two by the Commissioner of Administrative  
64 Services. The executive director (1) shall conduct comprehensive  
65 planning with respect to the functions of the department; (2) shall  
66 coordinate the activities of the department; (3) shall cause the  
67 administrative organization of the department to be examined with a  
68 view to promoting economy and efficiency; (4) shall, in concurrence  
69 with the chairperson of the authority, organize the department into  
70 such divisions, bureaus or other units as he deems necessary for the  
71 efficient conduct of the business of the department and may from time  
72 to time abolish, transfer or consolidate within the department, any  
73 division, bureau or other units as may be necessary for the efficient  
74 conduct of the business of the department, provided such organization  
75 shall include any division, bureau or other unit which is specifically  
76 required by the general statutes; (5) shall, for any proceeding on a  
77 proposed rate amendment in which staff of the department are to be  
78 made a party pursuant to section 16-19j, determine which staff shall  
79 appear and participate in the proceedings and which shall serve the  
80 members of the authority; (6) may enter into such contractual  
81 agreements, in accordance with established procedures, as may be  
82 necessary for the discharge of his duties; and (7) may, subject to the

83 provisions of section 4-32, and unless otherwise provided by law,  
84 receive any money, revenue or services from the federal government,  
85 corporations, associations or individuals, including payments from the  
86 sale of printed matter or any other material or services. The executive  
87 director shall require the staff of the department to have expertise in  
88 public utility engineering and accounting, finance, economics,  
89 computers and rate design. Subject to the provisions of chapter 67 and  
90 within available funds in any fiscal year, the executive director may  
91 appoint a secretary, and may employ such accountants, clerical  
92 assistants, engineers, inspectors, experts, consultants and agents as the  
93 department may require.

94 (g) No member of the authority or employee of the department  
95 shall, while serving as such, have any interest, financial or otherwise,  
96 direct or indirect, or engage in any business, employment, transaction  
97 or professional activity, or incur any obligation of any nature, which is  
98 in substantial conflict with the proper discharge of his duties or  
99 employment in the public interest and of his responsibilities as  
100 prescribed in the laws of this state, as defined in section 1-85; provided,  
101 no such substantial conflict shall be deemed to exist solely by virtue of  
102 the fact that a member of the authority or employee of the department,  
103 or any business in which such a person has an interest, receives utility  
104 service from one or more Connecticut utilities under the normal rates  
105 and conditions of service.

106 (h) No member of the authority or employee of the department shall  
107 accept other employment which will either impair his independence of  
108 judgment as to his official duties or employment or require him, or  
109 induce him, to disclose confidential information acquired by him in the  
110 course of and by reason of his official duties.

111 (i) No member of the authority or employee of the department shall  
112 wilfully and knowingly disclose, for pecuniary gain, to any other  
113 person, confidential information acquired by him in the course of and  
114 by reason of his official duties or employment or use any such  
115 information for the purpose of pecuniary gain.

116 (j) No member of the authority or employee of the department shall  
117 agree to accept, or be in partnership or association with any person, or  
118 a member of a professional corporation or in membership with any  
119 union or professional association which partnership, association,  
120 professional corporation, union or professional association agrees to  
121 accept any employment, fee or other thing of value, or portion thereof,  
122 in consideration of his appearing, agreeing to appear, or taking any  
123 other action on behalf of another person before the authority, the  
124 Connecticut Siting Council, the Office of Policy and Management or  
125 the Commissioner of Environmental Protection.

126 (k) No commissioner of the authority shall, for a period of one year  
127 following the termination of his or her service as a commissioner,  
128 accept employment: (1) By a public service company or by any person,  
129 firm or corporation engaged in lobbying activities with regard to  
130 governmental regulation of public service companies; (2) by a certified  
131 telecommunications provider or by any person, firm or corporation  
132 engaged in lobbying activities with regard to governmental regulation  
133 of persons, firms or corporations so certified; or (3) by an electric  
134 supplier or by any person, firm or corporation engaged in lobbying  
135 activities with regard to governmental regulation of electric suppliers.  
136 No such commissioner who is also an attorney shall in any capacity,  
137 appear or participate in any matter, or accept any compensation  
138 regarding a matter, before the authority, for a period of one year  
139 following the termination of his or her service as a commissioner.

140 Sec. 2. (NEW) (*Effective from passage*) In any proceeding before the  
141 Department of Public Utility Control involving more than two  
142 hundred thousand dollars, the department shall as part of the  
143 proceeding, conduct an analysis to determine whether its decision  
144 would have an overall negative cost impact on ratepayers. For any  
145 decision determined to have a negative cost impact on ratepayers, the  
146 department shall report this fact to the president pro tempore of the  
147 Senate, the speaker of the House of Representatives and the joint  
148 standing committee of the General Assembly having cognizance of

149 matters relating to energy at least sixty days before taking any action  
150 or requiring any action that implements the ruling, provided the sixty-  
151 day period may be shortened or eliminated if the department  
152 determines that there is a reliability emergency.

153 Sec. 3. Section 16-19e of the 2008 supplement to the general statutes  
154 is repealed and the following is substituted in lieu thereof (*Effective*  
155 *from passage*):

156 (a) In the exercise of its powers under the provisions of this title,  
157 including, but not limited to, the [Department of Public Utility Control  
158 shall examine and regulate] examination and regulation of the transfer  
159 of existing assets and franchises, the supervision of the expansion of  
160 the plant and equipment of existing public service companies, the  
161 supervision of the operations and internal workings of public service  
162 companies, and the establishment of the level and structure of rates,  
163 the Department of Public Utility Control shall act in accordance with  
164 the following principles: (1) That there is a clear public need for the  
165 service being proposed or provided; (2) that the public service  
166 company shall be fully competent to provide efficient and adequate  
167 service to the public in that such company is technically, financially  
168 and managerially expert and efficient; (3) that the department and all  
169 public service companies shall perform all of their respective public  
170 responsibilities with economy, efficiency and care for public safety and  
171 energy security, and so as to promote economic development within  
172 the state with consideration for energy and water conservation, energy  
173 efficiency and the development and utilization of renewable sources of  
174 energy and for the prudent management of the natural environment;  
175 (4) that the level and structure of rates be just and reasonable and  
176 sufficient, but no more than sufficient, to allow public service  
177 companies to cover their operating costs including, but not limited to,  
178 appropriate staffing levels, and capital costs, to attract needed capital  
179 and to maintain their financial integrity, and yet provide appropriate  
180 protection to the relevant public interests, both existing and  
181 foreseeable which shall include, but not be limited to, reasonable costs

182 of security of assets, facilities and equipment that are incurred solely  
183 for the purpose of responding to security needs associated with the  
184 terrorist attacks of September 11, 2001, and the continuing war on  
185 terrorism; (5) that the level and structure of rates charged customers  
186 shall reflect prudent and efficient management of the franchise  
187 operation; and (6) that the rates, charges, conditions of service and  
188 categories of service of the companies not discriminate against  
189 customers which utilize renewable energy sources or cogeneration  
190 technology to meet a portion of their energy requirements.

191 (b) On or before January 1, 2009, and each year thereafter, the  
192 Department of Public Utility Control shall prepare a report regarding  
193 which public service companies' rates are higher than the national  
194 average rates for similar service, on a per unit basis. The department  
195 shall submit said report to the Governor, the president pro tempore of  
196 the Senate, the speaker of the House of Representatives, and the joint  
197 standing committee of the General Assembly having cognizance of  
198 matters relating to energy.

199 (c) Notwithstanding subsection (a) of this section, for any company  
200 listed in the report prepared pursuant to subsection (b) of this section  
201 that has per unit rates higher than the national average, the  
202 Department of Public Utility Control shall examine and regulate the  
203 transfer of existing assets and franchises of such company, the  
204 operations and internal workings of such company, and the  
205 establishment of the level and structure of rates of such company in  
206 accordance with the following: (1) That there is a clear public need for  
207 the service being proposed or provided; (2) that the company shall be  
208 fully competent to provide efficient and adequate service to the public  
209 in that such company is technically, financially and managerially  
210 expert and efficient; (3) that the department and the public service  
211 company shall perform their respective public responsibilities with  
212 economy, efficiency and care for the public safety, with consideration  
213 for energy and water conservation, energy efficiency and the  
214 development and use of renewable sources of energy without a

215 significant net increase in rates, and for the prudent management of  
216 the natural environment; (4) that the level and structure of rates be  
217 sufficient, but no more than sufficient, to allow public service company  
218 to cover its operating and capital costs, to attract needed capital and to  
219 maintain their financial integrity, and yet provide appropriate  
220 protection to the relevant public interests, both existing and  
221 foreseeable, which shall include, but not be limited to, reasonable costs  
222 of security of assets, facilities and equipment incurred solely for  
223 responding to security needs associated with the terrorist attacks of  
224 September 11, 2001, and the continuing war on terrorism; (5) that the  
225 level and structure of rates charged customers shall reflect prudent  
226 and efficient management of the franchise operation; and (6) that the  
227 rates, charges, conditions of service and categories of service of the  
228 companies not discriminate against customers that use renewable  
229 energy sources or cogeneration technology to meet a portion of their  
230 energy requirements.

231 [(b)] (d) The Department of Public Utility Control shall promptly  
232 undertake a separate, general investigation of, and shall hold at least  
233 one public hearing on new pricing principles and rate structures for  
234 electric companies and for gas companies to consider, without  
235 limitation, long run incremental cost of marginal cost pricing, peak  
236 load or time of day pricing and proposals for optimizing the utilization  
237 of energy and restraining its wasteful use and encouraging energy  
238 conservation, and any other matter with respect to pricing principles  
239 and rate structures as the department shall deem appropriate. The  
240 department shall determine whether existing or future rate structures  
241 place an undue burden upon those persons of poverty status and shall  
242 make such adjustment in the rate structure as is necessary or desirable  
243 to take account of their indigency. The department shall require the  
244 utilization of such new principles and structures to the extent that the  
245 department determines that their implementation is in the public  
246 interest and necessary or desirable to accomplish the purposes of this  
247 provision without being unfair or discriminatory or unduly  
248 burdensome or disruptive to any group or class of customers, and

249 determines that such principles and structures are capable of yielding  
250 required revenues. In reviewing the rates and rate structures of electric  
251 and gas companies, the department shall take into consideration  
252 appropriate energy policies, including those of the state as expressed  
253 in subsection (c) of this section. The authority shall issue its initial  
254 findings on such investigation by December 1, 1976, and its final  
255 findings and order by June 1, 1977; provided that after such final  
256 findings and order are issued, the department shall at least once every  
257 two years undertake such further investigations as it deems  
258 appropriate with respect to new developments or desirable  
259 modifications in pricing principles and rate structures and, after  
260 holding at least one public hearing thereon, shall issue its findings and  
261 order thereon.

262       [(c)] (e) The Department of Public Utility Control shall consult at  
263 least once each year with the Commissioner of Environmental  
264 Protection, the Connecticut Siting Council and the Office of Policy and  
265 Management, so as to coordinate and integrate its actions, decisions  
266 and policies pertaining to gas and electric companies, so far as  
267 possible, with the actions, decisions and policies of said other agencies  
268 and instrumentalities in order to further the development and  
269 optimum use of the state's energy resources and conform to the  
270 greatest practicable extent with the state energy policy as stated in  
271 section 16a-35k, taking into account prudent management of the  
272 natural environment and continued promotion of economic  
273 development within the state. In the performance of its duties, the  
274 department shall take into consideration the energy policies of the  
275 state as expressed in this subsection and in any annual reports  
276 prepared or filed by such other agencies and instrumentalities, and  
277 shall defer, as appropriate, to any actions taken by such other agencies  
278 and instrumentalities on matters within their respective jurisdictions.

279       [(d)] (f) The Commissioner of Environmental Protection, the  
280 Commissioner of Economic and Community Development, the  
281 Connecticut Siting Council and the Office of Policy and Management

282 shall be made parties to each proceeding on a rate amendment  
283 proposed by a gas, electric or electric distribution company based  
284 upon an alleged need for increased revenues to finance an expansion  
285 of capital equipment and facilities, and shall participate in such  
286 proceedings to the extent necessary.

287 [(e)] (g) The Department of Public Utility Control, in a proceeding  
288 on a rate amendment proposed by an electric distribution company  
289 based upon an alleged need for increased revenues to finance an  
290 expansion of the capacity of its electric distribution system, shall  
291 determine whether demand-side management would be more cost-  
292 effective in meeting any demand for electricity for which the increase  
293 in capacity is proposed.

294 [(f)] (h) The provisions of this section shall not apply to the  
295 regulation of a telecommunications service which is a competitive  
296 service, as defined in section 16-247a, or to a telecommunications  
297 service to which an approved plan for an alternative form of regulation  
298 applies, pursuant to section 16-247k.

299 [(g)] (i) The department may, upon application of any gas or electric  
300 public service company, which has, as part of its existing rate plan, an  
301 earnings sharing mechanism, modify such rate plan to allow the gas or  
302 electric public service company, after a hearing that is conducted as a  
303 contested case, in accordance with chapter 54, to include in its rates the  
304 reasonable costs of security of assets, facilities, and equipment, both  
305 existing and foreseeable, that are incurred solely for the purpose of  
306 responding to security needs associated with the terrorist attacks of  
307 September 11, 2001, and the continuing war on terrorism.

308 Sec. 4. (NEW) (*Effective from passage*) When the Department of Public  
309 Utility Control receives ten complaints of a similar nature regarding a  
310 public service company, they shall open up a docket to consider the  
311 complaints and determine a resolution to the complaints within forty-  
312 five days.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-2
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	16-19e
Sec. 4	<i>from passage</i>	New section

**ET**      *Joint Favorable*