

TESTIMONY OF
ANTHONY JOHNSON
ON BEHALF OF
THE CONNECTICUT LIGHT AND POWER COMPANY
PROPOSED HB 5004 – LIABILITY FOR THEFT OR UNAUTHORIZED
DESTRUCTION OF TREES, TIMBER OR SHRUBBERY

Chairman Roy, Chairman Meyer and members of the Environment Committee, good morning. My name is Anthony Johnson and I am the Supervisor for the Transmission Vegetation Management Section for Northeast Utilities. I am here today to testify in opposition to proposed bill 5004 - AAC Liability for Theft or Unauthorized Destruction of Trees, Timber or Shrubbery.

The purpose of this bill is to increase the limits of liability to any person who cuts or destroys vegetation without license of the property owner. I feel that this increase is first, unnecessary and second, problematic in the course of our utility work to trim and remove vegetation that may contact electric facilities.

At this time, the current statute limits the amount of liability to treble damages based on the reasonable value of the vegetation removed or destroyed. The proposed bill does not state a maximum limit.

Companies who own and maintain electric facilities should not be exposed to the open-ended damage awards this bill contemplates. Nor should it provide opportunity for property owners to refuse required work jeopardizing the reliability of the state's electric systems or exposing the public to unsafe or hazardous conditions for the purpose of recouping some level of liability when the required work is actually performed.

There is no provision to exempt utilities from damages resulting from routine or emergency maintenance efforts on easemented properties even though license for the work arguably could have been granted through the easement rights. Also there is no exemption for work performed during emergency conditions where property owner contact and approval is not possible.

In 2006 the federal government instituted standards by which electric utilities must operate and manage their transmission facilities. One of these standards requires that vegetation be properly managed to eliminate any potential contact with overhead transmission facilities. Failure to adhere to the any section of the standard is a violation that can result in monetary penalties up to \$1 million per occurrence.

These standards were the direct result of the blackout of 2003 , which was precipitated by vegetation contact with trees.

Property owners may refuse tree work with the hope that the utility will have to perform the work or face penalties and then file suit against the utility for compensation for the removed or damaged vegetation. This will become a costly effort and these costs would in turn be passed onto the ratepayers of the state. And, since there is no stated limit on the level of compensation allowed, these costs could be significant.

Finally, the statute allows for reasonable market value of the damaged or removed vegetation but it is not clear what market value is to be used – timber value or a subjective value based on an estimate of the tree or vegetation's value to the landscape.

Vegetation will always need to be managed and controlled along transmission and distribution rights-of-way. Because of the vast area covered by the electric systems, there may occasionally be situations where a tree is cut or removed in an area where property ownership is not easy to determine. This should not result in the utility being unfairly penalized for removing or damaging vegetation that was necessary to comply with federal regulations.

It is my position that exceptions or exemptions be granted for certain utility programs or that lower limits be allowed in the event utilities inadvertently remove or damage vegetation without prior approval of the property owner in these instances where ownership is not clearly defined – such as easement rights-of-way.