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## Comments Regarding Bill #840

### AN ACT CONCERNING THE ELIMINATION OF THE OFFICE OF CONSUMER COUNSEL, THE OFFICE OF THE HEALTHCARE ADVOCATE, THE OFFICE OF OMBUDSMAN FOR PROPERTY RIGHTS AND CERTAIN LEGISLATIVE COMMISSIONS

Before the Government Administration and Elections Committee

March 16, 2009

Prepared by Shirley Bergert<sup>1</sup>

*Note: This comment is limited to the proposed elimination of the Office of Consumer Counsel.*

#### Recommended Action: Oppose elimination of the Office of Consumer Counsel

Since OCC's creation by the legislature in 1975, I have been practicing law in Connecticut. This agency has a proven track record of effectiveness on behalf of all classes of utility consumers. Connecticut cannot afford its loss.

OCC is entirely utility customer/ratepayer funded with a budget of approximately \$3 million. This relatively modest budget will not make a real dent in the budget deficit, but it will leave consumers unprotected if the funds are taken for the deficit.

Connecticut has both regulated utilities (CL&P, UI, CNG, SCG and Yankee Gas) and numerous municipal electric companies. Customers of the regulated utilities fund OCC. These regulated utilities have significantly higher customer bills than the municipal utilities. The proposal to take ratepayer funding which supports OCC will leave ratepayers unprotected in proceedings involving higher cost utilities, while imposing no obligation on customers of lower cost municipal utilities to contribute towards the budget deficit. It is essentially a hidden tax but isn't imposed equitably on all utility customers, only those with the highest bills.

OCC is often the entity that brings customer service issues to light and forces them to be addressed by petitioning the DPUC for remedial action. OCC is the only consistent source of expert testimony on behalf of consumers in proceedings before the Department of Public Utility Control (DPUC) to determine utility rates. Its staff includes lawyers, financial specialists and accountants knowledgeable and experienced regarding utility regulation. There is no equivalent elsewhere in the state to protect consumers, a statement the Attorney General (AG) supports.

<sup>1</sup> Shirley Bergert serves: as the residential representative on the Energy Conservation Management Board overseeing the expenditure of ratepayer conservation funds in Connecticut Energy Efficiency Fund (Conn. Gen. Stat. § 16-245m); as the low income representative on the Fuel Oil Conservation Board (Conn. Gen. Stat. § 16a-22f); on the Low Income Energy Advisory Board (Conn. Gen. Stat. § 16a-41b); and on the Advisory Board of the Institute for Sustainable Energy at Eastern Connecticut State University.

If OCC is disbanded and later recreated, it will take years to build the level of expertise and capacity to again reach the current level of capability and effectiveness. Thus, there will be a gap in ratepayer representation, but also a longer-term effect regarding capability and effectiveness.

Under administrative law, the opportunity to present evidence to a decision-making body, such as the DPUC, is only in the first instance at the hearings. The DPUC must make its decision based on the evidence before it. If an unbalanced decision is made by the DPUC because it has inadequate evidence before it, this cannot be corrected in a court appeal. The court will rely on the evidence developed in the DPUC hearings. It is critical that OCC be there to present evidence at the DPUC hearings, developed with the appropriate expertise.

All classes of customers lose if OCC is not there, but large enterprises such as manufacturers and larger businesses have organizations, funding and staff to pursue their interests. Small business and residential customers do not have a consistent voice in DPUC proceedings without OCC and therefore are more vulnerable to the loss of OCC than larger businesses.

The state legislature has created three important ratepayer fund purposes: OCC to protect consumers; the CT Energy Efficiency Fund which makes highly cost-effective conservation investments, and the CT Clean Energy Fund which focuses on renewable energy. These are not funded with tax dollars and the funding should not be treated as available to meet liabilities which should be funded by taxes. Rather, the legislature has structured expenditure of utility customer funding to address important public policy issues. In an economic downturn, the need for the investments reflected in these funds increase in importance. They should be protected, for the well-being of the state and its residents.