



Senate

General Assembly

File No. 290

February Session, 2010

Substitute Senate Bill No. 182

Senate, April 6, 2010

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 REVISIONS TO THE UTILITY STATUTES.

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

1 Section 1. Section 16-18a of the general statutes is amended by
2 adding subsection (d) as follows (*Effective from passage*):

3 (NEW) (d) For any proceeding before the Federal Energy
4 Regulatory Commission, the United States Department of Energy, the
5 United States Nuclear Regulatory Commission, the United States
6 Securities and Exchange Commission, the Federal Trade Commission,
7 the United States Department of Justice or the Federal
8 Communications Commission, the department may retain consultants
9 to assist its staff in such proceedings by providing expertise in areas in
10 which staff expertise does not currently exist or to supplement staff
11 expertise. All reasonable and proper expenses of such expert
12 consultants shall be borne by the public service companies, certified
13 telecommunications providers, electric suppliers or gas registrants
14 affected by the decisions of such proceeding and shall be paid at such

15 times and in such manner as the department directs, provided such
16 expenses (1) shall be apportioned in proportion to the revenues of each
17 affected entity as reported to the department pursuant to section 16-49
18 for the most recent period, and (2) shall not exceed two hundred fifty
19 thousand dollars per proceeding, including any appeals thereof, in any
20 calendar year unless the department finds good cause for exceeding
21 the limit. The department shall recognize all such expenses as proper
22 business expenses of the affected entities for ratemaking purposes
23 pursuant to section 16-19e, if applicable.

24 Sec. 2. Subsection (c) of section 16-262j of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective from*
26 *passage*):

27 (c) Each public service company, certified telecommunications
28 provider and electric supplier shall pay interest on any security
29 deposit it receives from a customer at the average rate paid, as of
30 December 30, 1992, on savings deposits by insured commercial banks
31 as published in the Federal Reserve Board bulletin and rounded to the
32 nearest one-tenth of one percentage point, except in no event shall the
33 rate be less than one and one-half per cent. On and after January 1,
34 1994, the rate for each calendar year shall be not less than the deposit
35 index as defined and determined by the Banking Commissioner in
36 subsection (d) of this section, for that year and rounded to the nearest
37 one-tenth of one percentage point, except in no event shall the rate be
38 less than one and one-half per cent.

39 Sec. 3. Subsection (c) of section 16-8a of the general statutes is
40 repealed and the following is substituted in lieu thereof (*Effective from*
41 *passage*):

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

47 (2) Not more than five business days after receiving a written
48 complaint, in a form prescribed by the department, the department
49 shall notify the employer by certified mail. Such notification shall
50 include a description of the nature of the charges and the substance of
51 any relevant supporting evidence. The employer may submit a written
52 response and both the employer and the employee may present
53 rebuttal statements in the form of affidavits from witnesses and
54 supporting documents and may meet with the department informally
55 to respond verbally about the nature of the employee's charges. The
56 department shall consider in making its preliminary finding as
57 provided in subdivision (3) of this subsection any such written and
58 verbal responses, including affidavits and supporting documents,
59 received by the department not more than twenty business days after
60 the employer receives such notice. Any such response received after
61 twenty business days shall be considered by the department only upon
62 a showing of good cause and at the discretion of the department. The
63 department shall make its preliminary finding as provided in
64 subdivision (3) of this subsection based on information described in
65 this subdivision, without a public hearing.

66 (3) Unless the department finds by clear and convincing evidence
67 that the adverse employment action was taken for a reason
68 unconnected with the employee's report of substantial misfeasance,
69 malfeasance or nonfeasance, there shall be a rebuttable presumption
70 that an employee was retaliated against in violation of subsection (a) of
71 this section if the department finds that: (A) The employee had
72 reported substantial misfeasance, malfeasance or nonfeasance in the
73 management of the public service company, holding company or
74 licensee; (B) the employee was subsequently discharged, suspended,
75 demoted or otherwise penalized by having the employee's status of
76 employment changed by the employee's employer; and (C) the
77 subsequent discharge, suspension, demotion or other penalty followed
78 the employee's report closely in time.

79 (4) If such findings are made, the department shall issue an order
80 requiring the employer to immediately return the employee to the

81 employee's previous position of employment or an equivalent position
82 pending the completion of the department's full investigatory
83 proceeding pursuant to subsection (d) of this section.

84 Sec. 4. Subdivision (1) of subsection (b) of section 16-262c of the
85 general statutes is repealed and the following is substituted in lieu
86 thereof (*Effective from passage*):

87 (b) (1) From November first to May first, inclusive, no electric or
88 electric distribution company, as defined in section 16-1, no electric
89 supplier and no municipal utility furnishing electricity shall terminate,
90 deny or refuse to reinstate residential electric service in hardship cases
91 where the customer lacks the financial resources to pay his or her
92 entire account. From November first to May first, inclusive, no gas
93 company and no municipal utility furnishing gas shall terminate, deny
94 or refuse to reinstate residential gas service in hardship cases where
95 the customer uses such gas for heat and lacks the financial resources to
96 pay his or her entire account, except a gas company that, between May
97 second and October thirty-first, terminated gas service to a residential
98 customer who uses gas for heat and who, during the previous period
99 of November first to May first, had gas service maintained because of
100 hardship status, may refuse to reinstate the gas service from November
101 first to May first, inclusive, only if the customer has failed to pay, since
102 the preceding November first, the lesser of: (A) Twenty per cent of the
103 outstanding principal balance owed the gas company as of the date of
104 termination, (B) one hundred dollars, or (C) the minimum payments
105 due under the customer's amortization agreement. Notwithstanding
106 any other provision of the general statutes to the contrary, no electric,
107 electric distribution or gas company, no electric supplier and no
108 municipal utility furnishing electricity or gas shall terminate or refuse
109 to reinstate residential electric or gas service where the customer lacks
110 the financial resources to pay his or her entire account and for which
111 customer or a member of the customer's household the termination or
112 failure to reinstate such service would create a life-threatening
113 situation.

114 Sec. 5. Subsection (a) of section 16-19 of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective from*
116 *passage*):

117 (a) No public service company may charge rates in excess of those
118 previously approved by the authority or the Department of Public
119 Utility Control except that any rate approved by the Public Utilities
120 Commission or the authority shall be permitted until amended by the
121 authority or the department, that rates not approved by the authority
122 or the department may be charged pursuant to subsection (b) of this
123 section, and that the hearing requirements with respect to adjustment
124 clauses are as set forth in section 16-19b. Each public service company
125 shall file any proposed amendment of its existing rates with the
126 department in such form and in accordance with such reasonable
127 regulations as the department may prescribe. Each electric, electric
128 distribution, gas or telephone company filing a proposed amendment
129 shall also file with the department an estimate of the effects of the
130 amendment, for various levels of consumption, on the household
131 budgets of high and moderate income customers and customers
132 having household incomes not more than one hundred fifty per cent of
133 the federal poverty level. Each electric and electric distribution
134 company shall also file such an estimate for space heating customers.
135 Each water company, except a water company that provides water to
136 its customers less than six consecutive months in a calendar year, filing
137 a proposed amendment, shall also file with the department a plan for
138 promoting water conservation by customers in such form and in
139 accordance with a memorandum of understanding entered into by the
140 department pursuant to section 4-67e. Each public service company
141 shall notify each customer who would be affected by the proposed
142 amendment, by mail, at least one week prior to the start of the public
143 hearing thereon but no earlier than six weeks prior to the start of the
144 public hearing, that an amendment has been or will be requested. Such
145 notice shall also indicate (1) the [Department of Public Utility Control]
146 date, time and location of each scheduled public hearing, if known at
147 the time such company prepares such notification, (2) that customers
148 may provide comments regarding the proposed rate request by

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

184 approved by the department. The department shall issue a final
185 decision on each rate filing within one hundred fifty days from the
186 proposed effective date thereof, provided it may, before the end of
187 such period and upon notifying all parties and intervenors to the
188 proceedings, extend the period by thirty days.

189 Sec. 6. Subsection (f) of section 16-2 of the general statutes is
190 repealed and the following is substituted in lieu thereof (*Effective from*
191 *passage*):

192 (f) (1) The chairperson of the authority, with the consent of two or
193 more other members of the authority, shall appoint an executive
194 director, who shall be the chief administrative officer of the
195 Department of Public Utility Control. The executive director shall be
196 supervised by the chairperson of the authority, serve for a term of four
197 years and annually receive a salary equal to that established for
198 management pay plan salary group seventy-two by the Commissioner
199 of Administrative Services. The executive director ~~[(1)]~~ (A) shall
200 conduct comprehensive planning with respect to the functions of the
201 department; ~~[(2)]~~ (B) shall coordinate the activities of the department;
202 ~~[(3)]~~ (C) shall cause the administrative organization of the department
203 to be examined with a view to promoting economy and efficiency; ~~[(4)]~~
204 (D) shall, in concurrence with the chairperson of the authority,
205 organize the department into such divisions, bureaus or other units as
206 he deems necessary for the efficient conduct of the business of the
207 department and may from time to time abolish, transfer or consolidate
208 within the department, any division, bureau or other units as may be
209 necessary for the efficient conduct of the business of the department,
210 provided such organization shall include any division, bureau or other
211 unit which is specifically required by the general statutes; ~~[(5)]~~ (E)
212 shall, for any proceeding on a proposed rate amendment in which staff
213 of the department are to be made a party pursuant to section 16-19j,
214 determine which staff shall appear and participate in the proceedings
215 and which shall serve the members of the authority; ~~[(6)]~~ (F) may enter
216 into such contractual agreements, in accordance with established
217 procedures, as may be necessary for the discharge of his duties; and

218 [(7)] (G) may, subject to the provisions of section 4-32, and unless
219 otherwise provided by law, receive any money, revenue or services
220 from the federal government, corporations, associations or individuals,
221 including payments from the sale of printed matter or any other
222 material or services. The executive director shall require the staff of the
223 department to have expertise in public utility engineering and
224 accounting, finance, economics, computers and rate design. Subject to
225 the provisions of chapter 67 and within available funds in any fiscal
226 year, the executive director may appoint a secretary, and may employ
227 such accountants, clerical assistants, engineers, inspectors, experts,
228 consultants and agents as the department may require.

229 (2) The chairperson may appoint a designee to serve on behalf of the
230 department as a member of a board or council created to facilitate state
231 or regional initiatives with respect to matters affecting the public
232 interest in connection with utility regulation and services, including,
233 but not limited to, issues on climate change, the reduction of
234 greenhouse gas emissions, regional planning and low-income energy
235 assistance.

236 Sec. 7. Subsection (a) of section 16-243q of the general statutes is
237 repealed and the following is substituted in lieu thereof (*Effective July*
238 *1, 2010*):

239 (a) On and after January 1, 2007, each electric distribution company
240 providing standard service pursuant to section 16-244c and each
241 electric supplier as defined in section 16-1 shall demonstrate to the
242 satisfaction of the Department of Public Utility Control that not less
243 than one per cent of the total output of such supplier or such standard
244 service of an electric distribution company shall be obtained from
245 Class III sources. On and after January 1, 2008, not less than two per
246 cent of the total output of any such supplier or such standard service of
247 an electric distribution company shall, on demonstration satisfactory to
248 the Department of Public Utility Control, be obtained from Class III
249 sources. On or after January 1, 2009, not less than three per cent of the
250 total output of any such supplier or such standard service of an electric

251 distribution company shall, on demonstration satisfactory to the
 252 Department of Public Utility Control, be obtained from Class III
 253 sources. On and after January 1, 2010, not less than four per cent of the
 254 total output of any such supplier or such standard service or supplier
 255 of last resort service, pursuant to section 16-244c, of an electric
 256 distribution company shall, on demonstration satisfactory to the
 257 Department of Public Utility Control, be obtained from Class III
 258 sources. Electric power obtained from customer-side distributed
 259 resources that does not meet air and water quality standards of the
 260 Department of Environmental Protection is not eligible for purposes of
 261 meeting the percentage standards in this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-18a
Sec. 2	<i>from passage</i>	16-262j(c)
Sec. 3	<i>from passage</i>	16-8a(c)
Sec. 4	<i>from passage</i>	16-262c(b)(1)
Sec. 5	<i>from passage</i>	16-19(a)
Sec. 6	<i>from passage</i>	16-2(f)
Sec. 7	<i>July 1, 2010</i>	16-243q(a)

ET *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
All	All Funds - Potential Cost	Minimal	Minimal

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	Potential Cost	Minimal	Minimal

Explanation

The bill allows the Department of Public Utility Control to retain consultants for any proceeding before various federal agencies. The costs of such consultants will be paid proportionately by each utility entity affected and all costs to the utility will be recovered through inclusion in the rates for all utility customers. Typically the DPUC appears in 3 proceedings before federal agencies each year and employs 1 consultant. The bill allows for a maximum of \$250,000 in expenses for each proceeding. If DPUC continues to have 3 hearings each year, this will result in an additional \$750,000 that the utility companies will then pass onto ratepayers, including the state and municipalities. The cost would be minimal and there would be no cost to ratepayers, including the state and municipalities, until the Department of Public Utility Control revises the utility rates to incorporate the bill's costs.

The bill also makes other various changes to utility statutes that do

not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would remain constant into the future since the maximum allowable expenses are set by statute.

OLR Bill Analysis**sSB 182*****AN ACT CONCERNING REVISIONS TO THE UTILITY STATUTES.*****SUMMARY:**

This bill bars electric and gas utilities and competitive electric suppliers from denying service from November 1 to May 1 for hardship customers. The law already prohibits the utilities and suppliers from terminating or refusing to reinstate service to these customers during this period.

By law, utility companies seeking to change their rates must notify their customers at least one week before the Department of Public Utility Control (DPUC) holds a hearing on the request. The bill specifies that this notice can be made no earlier than six weeks before the hearing starts. It expands the content of the notice to include (1) the date, time, and location of each scheduled public hearing, if known when the company prepares the notice notification and (2) a statement that customers may provide comments on the proposed rate request by writing to DPUC or by appearing at one of the scheduled hearings.

The bill allows DPUC to retain consultants when it participates in proceedings before various federal agencies. It increases, from 30 to 90 business days, the time DPUC has to make its preliminary findings after receiving a whistle-blowing complaint from an employee or contractor in the energy industry.

By law, electric companies must get 4% of the power they obtain to serve their small and medium size customers from class III resources, such as cogeneration systems or savings from conservation programs. The bill extends this requirement to the power the companies obtain to serve their last resort customers, i.e., customers with demand over 500 kilowatts who do not choose a competitive supplier. By law, the

requirement also applies to competitive suppliers with regard to all of their customers.

The bill allows the DPUC chairperson to appoint a designee to serve on DPUC's behalf as a member of a board or council created to facilitate state or regional initiatives affecting the public interest with regard to utility regulation and services, such as those addressing climate change, the reduction of greenhouse gas emissions, regional planning, and low-income energy assistance.

The bill makes minor and technical changes.

EFFECTIVE DATE: Upon passage, except the class III requirement is effective July 1, 2010.

DPUC CONSULTANTS

The bill allows DPUC to retain consultants for proceedings before various federal agencies to assist its staff by providing expertise in areas where staff lacks expertise or to supplement staff expertise. The agencies are: the Federal Energy Regulatory Commission, U.S. Department of Energy, U.S. Nuclear Regulatory Commission, U.S. Securities and Exchange Commission, Federal Trade Commission, U.S. Department of Justice, or Federal Communications Commission.

Under the bill, the utility or other entity regulated by DPUC affected by the decisions of the proceeding must bear the reasonable and proper expenses of the consultants. The expenses must be paid when and in such manner as DPUC directs. The expenses (1) must be apportioned in proportion to the revenue of each affected entity as reported to DPUC under current law and (2) may not exceed \$250,000 per proceeding, including any appeals, in any calendar year unless DPUC finds good cause for exceeding the limit. DPUC must recognize these expenses as proper business expenses for inclusion in rates if DPUC regulates the company's rates.

BACKGROUND

Hardship Customers

By law, hardship customers include anyone (1) receiving state or federal public assistance; (2) whose only financial support is Social Security, Veterans' Administration, or unemployment compensation benefits; (3) who is unemployed and head of a household whose household income is less than three times the federal poverty level (4) who is seriously ill or has a seriously ill household member; (5) whose income falls below 125% of the federal poverty level; or (6) whose circumstances threaten a deprivation of food and the necessities of life for himself or dependent children if the customer is required to pay a delinquent bill (CGS § 16-262c).

Related Bill

sHB 5216, reported favorably by the Energy and Technology Committee, extends the period in which electric and gas utilities may not terminate or refuse to reinstate residential electric service for certain households with children up to 24 months old.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/18/2010)