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The Joint Committee on General Law

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H.B. 6389, AN ACT TRANSFERRING THE RESPONSIBILITIES OF THE DIVISION OF SPECIAL REVENUE, CONSUMER COUNSEL, HEALTHCARE ADVOCATE AND BOARD OF ACCOUNTANCY TO THE DEPARTMENT OF CONSUMER PROTECTION.

Testimony of Mary J. Healey, Consumer Counsel

Thank you Senator Doyle, Representative Taborsak and members of the General Law Committee for this opportunity to speak on behalf of the Office of Consumer Counsel.

The Office of Consumer Counsel (OCC) opposes Section 42 of H.B. 6389, *An Act Transferring the Responsibilities of the Division of Special Revenue, Consumer Counsel, Healthcare Advocate and Board of Accountancy to the Department of Consumer Protection.*

UTILITY RATEPAYERS NEED A STRONG, INDEPENDENT VOICE NOW MORE THAN EVER

The OCC recognizes that the state is experiencing trying economic times, that the governor has a central role in balancing the budget, and that drastic measures are necessary to accomplish that goal. Merging OCC, an off-budget agency, into the Department of Consumer Protection (DCP) does nothing to help balance the budget, or to create efficiencies in government. Rather, it could lead to an increase in utility bills paid by ratepayers (including the utility bills paid by state agencies and institutions) due to a decrease in OCC's efficacy as the ratepayer advocate.[1] The proposed merger of OCC into DCP, as written, provides no protection of a separate division within the DCP, and removes the important requirement that OCC be provided space at the Department of Public Utility Control (DPUC). Most significantly, merging OCC into any executive branch agency would make OCC more vulnerable to political influence and could compromise OCC's right to appeal DPUC cases. For these reasons, H.B. 6389 would

[1] The OCC, supportive of the Legislature's promotion of results-based accounting practices, has been creating a scorecard of its goals and accomplishments for a number of years. OCC's scorecard, recently updated and attached hereto, indicates that OCC's advocacy at the DPUC over just the past year has led to approximately $950 million in savings for utility ratepayers.

seriously hinder OCC's ability to effectively represent ratepayers.

OCC AND DCP ROLES ARE VASTLY DIFFERENT AND OCC'S EXPERTISE IN UTILITY/ENERGY MATTERS IS UNIQUELY SPECIALIZED

OCC and DCP do not duplicate roles in any way, and the two agencies actually function very differently. OCC represents the general class of utility ratepayers in regulatory proceedings, primarily acting as a litigant appearing before regulatory agencies and courts of law, whereas DCP functions as a regulatory agency and is represented in court by the Attorney General's Office. While DCP processes individual customer complaints, OCC does not, since that function is handled pursuant to statute and budget by the Consumer Services Unit of the Department of Public Utility Control. In fact, the DCP, through its website, refers all public utility service complaints to the DPUC, as does the OCC.

Thus, there is no overlap in subject matter between the agencies. OCC's only focus is utility and energy matters as they affect utility ratepayers, a highly complex and technical area of law and practice with which DCP has no current involvement. Further, unlike DCP and all its component parts, the legislature created OCC in 1975 with the specific intent of creating an independent advocacy agency. (See attached testimony of Sen. Amenta (6th), May 29, 1975 at 2989; testimony of Rep. Ritter (6th), June 2, 1975 at 6025.) For the past 36 years, the legislature has consistently protected OCC's independence from periodic efforts to dilute that independence.

This bill, as written, does not even provide protection for OCC as a separate division of DCP. OCC is highly specialized in utility and energy matters, and should be preserved to ensure that OCC is solely focused in this area. The Consumer Counsel brought ten years of utility experience to this position, possessing a comprehensive background in utility regulatory law and business as Vice President, General Counsel and Corporate Secretary of a regulated utility. Due to the high level of training and experience necessary in this complex field, it would be wasteful to have OCC's specialized and experienced staff working on non-utility matters, just as it would be wasteful to have DCP staff not trained in this area filling in on matters within OCC's purview.

Furthermore, OCC routinely provides the only testimony that counters the utility companies' testimony in rate cases and other technical proceedings before the DPUC. OCC's staff is frequently outmanned, though not outmatched, by utility company personnel during these proceedings, thus OCC needs to be able to act quickly and efficiently in order to effectively challenge the utility companies and protect utility ratepayers' wallets. Quick and efficient action is difficult to achieve in a large agency with a broad mandate like DCP's. In sum, a dilution of the services provided by OCC to Connecticut's utility ratepayers seems inevitable under this proposed construct.

OCC is not an administratively inefficient agency. OCC has only one secretary position filled and one executive secretary to support eleven other positions in addition to the Consumer Counsel. If OCC were merged with a larger agency, it would still require administrative support specific to its daily functioning at the level it has now. Moreover, the Consumer Counsel position would presumably have to be replaced with a supervisory or unit head position. In sum, the number of positions cannot be reduced without affecting the core functions of the agency.

Thus, a merger of OCC with DCP would not create any discernible staffing efficiencies. Rather, it would be awkward and inefficient, as there are few parallels between the agencies with

respect to subject area, and the legal roles of the two agencies are quite different. Most significantly, it would compromise the independence of the agency and could also compromise its legal right to appeal DPUC cases.

OCC STAFF CANNOT OPERATE EFFECTIVELY IF NOT IN PROXIMITY TO THE DPUC

Section 42 of H.B. 6389 would also diminish the efficacy of OCC's staff by removing an important existing requirement: that the DPUC provide OCC with office space. This provision to house the OCC in the same building as the DPUC (then the Public Utility Control Authority, or "PUCA"), was intended to provide the benefit of proximity. (See attached testimony of Rep. Ritter (6th), June 2, 1975 at 6042.) This benefit is critical to OCC's day to day operations. The DPUC is located in New Britain. Approximately 90% of OCC's work involves preparation for, and participation in, DPUC hearings. During complicated proceedings such as rate cases, the majority of OCC's staff is in and out of the hearing room many times during the course of the day, cross examining witnesses, listening to the cross examination of DPUC staff, and/or giving testimony as a witness on behalf of ratepayers. Thousands of pages of documents may be in evidence, and need to be available to OCC's staff during hearings. Since OCC's offices are in the same building as the DPUC and its hearing rooms, OCC staff is able to use the office as a staging area, with all relevant documents at hand, and as a meeting area for confidential staff discussions.

Basing OCC employees in Hartford would require each of OCC's employees to travel constantly between Hartford and New Britain, even for frequently-scheduled short hearings and meetings, which would reduce staff productivity greatly. Moreover, OCC staff would have no access to work space in New Britain, which is essential during complicated and time-consuming cases. This would put OCC staff at a distinct disadvantage to the larger utility companies, who typically rent space near the DPUC offices either temporarily during the course of a rate case, or on a permanent basis.

OCC's participation in DPUC proceedings and Court proceedings requires tens of thousands of pages of filings annually. In these proceedings, OCC is required to file original, hard copies of documents in person with the DPUC or at the Superior Court in New Britain. Not being located in the same physical proximity will put OCC in a distinct disadvantage in making filings with the DPUC when under filing deadlines. This will increase travel and shipping or mailing costs.

There are also cases when OCC finds its positions aligned with those of the DPUC, and the two agencies work together closely to achieve an outcome. For example, OCC and DPUC often work collaboratively on issues arising at ISO-New England and the Federal Energy Regulatory Commission ("FERC"). Proximity to DPUC staff is also valuable in this regard.

THE VAST MAJORITY OF OTHER STATES HAVE INDEPENDENT RATEPAYER ADVOCATES

In other states that have utility ratepayer advocates (only five do not), according to OCC's research, there are 17 states with independent ratepayer advocate agencies and 15 states which assign the function, in whole or in large part, to their Attorney General's office. Five states have a ratepayer advocate division at the PUC, and only 3 states have ratepayer advocate

divisions in other state agencies.[2] Thus, the vast majority of state legislatures have chosen to create independent ratepayer advocate offices that are not assigned to an executive branch agency.

CONCLUSION

The OCC urges the members of this Committee to support the preservation of an independent, utility ratepayer focused OCC (as the legislature has done many times before) and to maintain the statutory requirement that the DPUC provide space to the OCC. Section 42 of H.B. 6389 provides no general fund savings or staffing efficiencies and the dilution of OCC's strong, independent voice will have a profound negative economic impact on Connecticut's utility customers. Utility ratepayers pay for OCC's advocacy on their behalf and have a need for, and a right to, a dedicated, independent advocate. Please ensure that Connecticut's utility ratepayers retain their voice through a strong, independent OCC.

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[2] The remaining states divide the role among agencies and/or have private, non-profit consumer advocates.