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**House Bill 5474, An Act Concerning the Autonomy of the Public Utilities  
Regulatory Authority  
Energy and Technology Committee  
March 15, 2012**

**CCIA Position: Opposed to section 17**

Connecticut Construction Industries Association represents various sectors of the commercial construction industry in Connecticut and seeks to advance and promote a better quality of life for all citizens in the state. Formed over 40 years ago, CCIA is an organization of associations, where all sectors of the commercial construction industry work together to advance and promote their shared interests. CCIA is comprised of more than 300 members, including contractors, subcontractors, suppliers and affiliated organizations representing many sectors of the construction industry. CCIA and one of its divisions, Connecticut Environmental and Utilities Contractors Association, are comprised of a number of substantial contractors who have a long history of providing quality work for the public benefit and a great deal of experience in performing quality construction on underground utility construction projects across the state.

CCIA and CEUCA are **opposed** to section 17 of House Bill 5474, An Act Concerning the Autonomy of the Public Utilities Regulatory Authority, and respectfully request that the committee strike that section of the bill.

House Bill 5474 makes a number of mostly technical, non-substantive changes to various statutes authorizing and governing the Public Utilities Regulatory Authority (PURA) in the Department of Energy and Environmental Protection. Section 17 of the bill, however, establishes a new Division of Enforcement within PURA with extraordinarily broad authority to review and investigate any potential violations of the law concerning public utilities. It would have the power to conduct investigations, take testimony and depositions, issue subpoenas and order the production of documents of most entities regulated by PURA. Utility contractors and excavators, among others, would be subject to this broad authority. The enforcement division could recommend that PURA assess civil penalties for violations and noncompliance.

CCIA is opposed to section 17 of House Bill 5474 because:

- it is not necessary, and a mechanism is already in place for this purpose;
- it raises a number of unanswered questions and could create unintended consequences; and
- it will not solve the problem it is designed to address.

CCIA and CEUCA support enforcement of the laws protecting underground utility facilities and our contractor-members comply with the comprehensive regulations when



engaging in excavation near underground facilities. Prevention of damage to vital utility infrastructure systems as well the safety of underground utility construction workers and the public is a high priority for CEUCA. CEUCA works closely with the board and staff that operate the Call Before You Dig (CBYD) program, which is designed to protect the public safety with regard to excavations near underground facilities by providing a communications link between excavators, public agencies, and public utilities. PURA oversees the program, and may assess civil penalties in the thousands of dollars for anyone who violates the laws and regulations governing excavation near such facilities.

The current statutory and regulatory framework sufficiently addresses the state's interests in providing a safe work environment, protecting public safety, and minimizing damage to underground facilities. Conn. Gen. Stat. §16-41 sets forth the requirements to comply with the laws pertaining to public utilities and PURA's authority to impose fines on contractors and others of up to \$10,000 per violation and civil penalties of up to \$40,000 for failure to comply with orders of the department. The statute also provides due process and an opportunity for a hearing and enforcement of any such orders. No person or utility can engage in underground utility construction without notifying CBYD, obtaining a permit and complying with the comprehensive laws and regulations for excavation near underground utility facilities. Conn. Gen. Stat. §16-356 authorizes civil penalties of up to \$40,000 and sets forth the opportunity for a hearing for alleged violations of the laws.

Staff in PURA's Gas Pipeline Safety Unit competently administer and enforce the laws and regulations governing excavation near underground utility facilities. Additional enforcement authority is unnecessary and it would be duplicative. It is not necessary to subject to these new requirements excavators who already are subject to oversight by PURA following a utility incident, such as a strike. Additionally, there is no compelling reason to provide this new authority or treat excavators like public utilities.

Section 17 of the bill does not specify how the new enforcement division would be administered or funded. It is not clear who would staff and enforce its provisions and whether there would be sufficient resources to do so. Also, it is not clear how the new authority would integrate with existing laws, which may create confusion for administrators and regulated entities alike.

For all of the above reasons, section 17 of House Bill 5474 should be stricken by the committee.

Please contact Matthew Hallisey, CCIA Director of Government Relations and Legislative Counsel and Executive Director of Connecticut Environmental and Utilities Contractors Association, at 860-529-6855, if you have any questions or if you need additional information.