

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
PUBLIC UTILITIES REGULATORY AUTHORITY**

Public Hearing – March 15, 2012
Energy & technology Committee
Testimony Submitted by Chairman Kevin DelGobbo

**House Bill No. 5474 – AN ACT CONCERNING THE AUTONOMY OF THE PUBLIC UTILITIES
REGULATORY AUTHORITY**

Thank you for the opportunity to present testimony regarding House Bill No. 5474 – An Act Concerning the Autonomy of the Public Utilities Regulatory Authority. The Department of Energy and Environmental Protection’s (DEEP) Public Utilities Regulatory Authority (“PURA” or “Authority”) welcomes the opportunity to offer the following testimony.

I agree with the general premise of HB 5474 insofar as it reinforces the principle that a utility regulatory body must be able to discharge its responsibilities independently. I also agree that given the highly complex nature of the issues that come before such a body, it is necessary that utility regulators have sufficient resources and organizational support to fulfill its mandate. However, this committee must carefully consider whether all of the provisions contained in this proposal are necessary to achieve that goal, and whether they are consistent with broader policy objectives that this legislature adopted less than a year ago in Public Act 11-80.

In order for the new organizational paradigm of DEEP to achieve its fullest potential, the greatest of care must be exercised by the Commissioner in regards to the relationship and role of PURA within DEEP. This is an issue that Commissioner Esty and I have spoken of at length and I know that he is entirely committed to ensuring that the culture and operations of the PURA Directors and the staff organization that supports them is indeed appropriately independent.

It has been less than a year since Public Act 11-80 came into effect. The scope of objectives contained within it was incredibly ambitious, and the implementation of its provisions has been an enormous and sometimes difficult task for the incredibly talented and dedicated people that I have the honor to work with. I want to take this opportunity to publicly thank the team in New Britain for their continued extraordinary efforts during this transition.

Among its many provisions, Public Act 11-80 required the DEEP Commissioner to establish a Bureau of Energy and Technology Policy (BETP). This was to be accomplished utilizing the existing personnel resources of the former DPUC, DEP and OPM. Organizationally, this required a reduction in the staff assigned to regulatory functions. Some may view the process by which this occurred as a diminishment of the “independence” of the regulatory body. I do not. If Public Act 11-80 had directed that the BETP be established within the Office and Policy Management for example, and that a standalone DPUC remained, there would have existed the same condition of reduced regulatory staff, and certain organizational decisions being made by someone other than the DPUC Chairman.

HB 5474 proposes to have PURA exist within the DEEP for “administrative purposes only” as a mechanism to enhance the autonomy of the regulatory function. I must remind the Committee that even when the DPUC existed as its own Executive Branch Agency, many organizational, budget and policy determinations were ultimately made by the Governor or his/her designee. Budget requests, position refills, organizational changes, legislative testimony and policy positions are just a few examples that were outside the independent regulatory function.

Prior to PA 11-80, there was a five member body of regulators supported by an Executive Branch agency known as the DPUC. Today there is a 3 member body of regulators supported by an Executive Branch organization within the DEEP known as PURA.

This is an important distinction. The independent regulatory determinations are made by the body of directors. In that explicit role they were not and are not under the direction of any executive branch official. PURA supports section 19 of this bill which will help ensure that continued independence by providing that once appointed, regulators do not serve at the pleasure of the Governor or a Commissioner, but rather can only be removed for specific cause. Likewise, the provisions in Section 2 would ensure that the organization and staff of PURA are under the direction of the Chairperson of the Authority. I believe that the adoption of these sections makes clear the appropriate autonomy of PURA and makes the “for administrative purposes only” provision unnecessary.

DEEP established a broad agency wide organizational framework to implement the requirements of PA 11-80. At this point, PURA is revisiting its own structure. We are utilizing the experience we have gained over the past year, as well as the possible enhanced jurisdiction and responsibilities that may result from this legislative session in response to the utility storm response, to develop a refined structure that best meets our mission. As contemplated by the Public Act, this will be a PURA process, undertaken at the direction of its chairperson, not the DEEP Commissioner.

PURA concurs that sections 4, 5, 8, 9, 10, 12 and 13 represent appropriate clarifications to the original construct enacted pursuant to Public Act 11-80 and would note that these sections reflect the practice that has already been in place since this legislation was adopted.

Section 11 would significantly expand the types of facilities and entities that would be subject to PURA’s ability to assess fines for violations of PURA’s statutes, and for violations of the statutes of a

sister agency, including the Connecticut Siting Council. The Authority agrees in principle with this provision as it would enhance our ability to fulfill our mission under Title 16. However, PURA would note that there may be some overlapping jurisdictional issues with regard to the entities and facilities covered under Con. Gen. Stat. section 16-50i and therefore would request further discussions with the Committee to achieve the intent of this section.

Section 14 requires PURA to initiate a docket to review the regulation of the state's propane industry. The Authority has no objection to undertaking such a proceeding.

Section 15 also requires that PURA initiate a docket to review the sufficiency of natural gas lines in the state to supply natural gas for consumers to operate generators. PURA would respectfully suggest that this type of analysis would most properly be undertaken by the DEEP Bureau of Energy and Technology Policy.

Section 17 establishes a new Division of Enforcement within PURA to review and investigate any potential violations of Title 16 or orders and regulations adopted by the Authority and the Connecticut Siting Council. PURA believes that the purpose of this section has merit. Commissioner Esty has recently directed the development of cross agency enforcement capabilities. PURA has also initiated its own planning process to develop enhanced enforcement capabilities. However, PURA would request further discussions with the Committee to achieve the intent of this section.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance at 424-3401 or Robert.LaFrance@ct.gov.