



General Assembly

Substitute Bill No. 416

February Session, 2012

* _____SB00416ET_____032812_____*

**AN ACT CONCERNING MERGERS AND ACQUISITIONS OF THE
HOLDING COMPANIES OF CERTAIN PUBLIC UTILITY COMPANIES.**

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

1 Section 1. Section 16-47 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section and section 16-47a, (1) "holding company"
4 means any corporation, association, partnership, trust or similar
5 organization, or person which, either alone or in conjunction and
6 pursuant to an arrangement or understanding with one or more other
7 corporations, associations, partnerships, trusts or similar
8 organizations, or persons, directly or indirectly, controls a gas, electric,
9 electric distribution, water, telephone or community antenna television
10 company, and (2) "control" means the possession of the power to direct
11 or cause the direction of the management and policies of a gas, electric,
12 electric distribution, water, telephone or community antenna television
13 company or a holding company, whether through the ownership of its
14 voting securities, the ability to effect a change in the composition of its
15 board of directors or otherwise, provided, control shall not be deemed
16 to arise solely from a revocable proxy or consent given to a person in
17 response to a public proxy or consent solicitation made pursuant to
18 and in accordance with the applicable rules and regulations of the
19 Securities Exchange Act of 1934 unless a participant in said solicitation

20 has announced an intention to effect a merger or consolidation with,
21 reorganization, or other business combination or extraordinary
22 transaction involving the gas, electric, electric distribution, water,
23 telephone or community antenna television company or the holding
24 company. Control shall be presumed to exist if a person directly or
25 indirectly owns ten per cent or more of the voting securities of a gas,
26 electric, electric distribution, water, telephone or community antenna
27 television company or a holding company, provided the authority may
28 determine, after conducting a hearing, that said presumption of control
29 has been rebutted by a showing that such ownership does not in fact
30 confer control.

31 (b) No gas, electric, electric distribution, water, telephone or
32 community antenna television company, or holding company, or any
33 official, board or commission purporting to act under any
34 governmental authority other than that of this state or of its divisions,
35 municipal corporations or courts, shall interfere or attempt to interfere
36 with or, directly or indirectly, exercise or attempt to exercise authority
37 or control over any gas, electric, electric distribution, water, telephone
38 or community antenna television company engaged in the business of
39 supplying service within this state, or with or over any holding
40 company doing the principal part of its business within this state,
41 without first making written application to and obtaining the approval
42 of the Public Utilities Regulatory Authority, except as the United States
43 may properly regulate actual transactions in interstate commerce.

44 (c) No corporation, association, partnership, trust or similar
45 organization, or person shall, without first making written application
46 to and obtaining the approval of the authority (1) take any action that
47 causes it to become a holding company with control over a gas,
48 electric, electric distribution, water, telephone or community antenna
49 television company engaged in the business of supplying service
50 within this state, [or] (2) acquire, directly or indirectly, control over
51 such a holding company, [or] (3) enter into a merger or acquisition that
52 would cause its shareholders to own at least ten per cent of the shares
53 of such a holding company, provided the authority determines that

54 such merger or acquisition would have a positive or negative
55 measurable impact on ratepayers within this state, or (4) take any
56 action that would if successful cause it to become or to acquire control
57 over such a holding company. [without first making written
58 application to and obtaining the approval of the authority.] Any such
59 corporation, association, partnership, trust or similar organization, or
60 person applying to the authority for such approval shall pay the
61 reasonable expenses incurred by the authority in carrying out its duties
62 under this subsection, and accordingly, shall deposit with the
63 authority a bond, executed by a surety company authorized to do
64 business in this state, in the amount of fifty thousand dollars,
65 conditioned to indemnify the authority for such expenses.

66 (d) The Public Utilities Regulatory Authority shall investigate and
67 hold a public hearing on the question of granting its approval with
68 respect to any application made under subsection (b) or (c) of this
69 section. [and thereafter may approve or disapprove any such
70 application in whole or in part and upon such terms and conditions as
71 it deems necessary or appropriate.] In connection with its
72 investigation, the authority may request the views of the gas, electric,
73 electric distribution, water, telephone or community antenna television
74 company or holding company which is the subject of the application
75 with respect to the proposed acquisition or merger. After the filing of
76 an application satisfying the requirements of such regulations as the
77 authority may adopt in accordance with the provisions of chapter 54,
78 but not later than thirty business days after the filing of such
79 application, the authority shall give prompt notice of the public
80 hearing to the person required to file the application and to the subject
81 company or holding company. Such hearing shall be commenced as
82 promptly as practicable after the filing of the application, but not later
83 than thirty business days after the filing, and the authority shall make
84 its determination as soon as practicable, but not later than one hundred
85 twenty days after the filing of the application unless the person
86 required to file the application agrees to an extension of time. The
87 authority may, in its discretion, grant the subject company or holding

88 company the opportunity to participate in the hearing by presenting
89 evidence and oral and written argument. If the authority fails to give
90 notice of its determination to hold a hearing, commence the hearing, or
91 render its determination after the hearing within the time limits
92 specified in this subdivision, the proposed acquisition or merger shall
93 be deemed approved. In each proceeding on a written application
94 submitted under said subsection (b) or (c), the authority shall, in a
95 manner which treats all parties to the proceeding on an equal basis,
96 take into consideration (1) the financial, technological and managerial
97 suitability and responsibility of the applicant, (2) the ability of the gas,
98 electric, electric distribution, water, telephone or community antenna
99 television company or holding company which is the subject of the
100 application to provide safe, adequate and reliable service to the public
101 through the company's plant, equipment and manner of operation if
102 the application were to be approved, and (3) for an application
103 concerning a telephone company, the effect of approval on the location
104 and accessibility of management and operations and on the proportion
105 and number of state resident employees. The authority may approve
106 or disapprove any application made under subsection (b) or (c) of this
107 section in whole or in part and upon such terms and conditions as it
108 deems necessary or appropriate, provided the authority shall not
109 approve any such application unless the applicant sufficiently
110 demonstrates to the authority that approval of such application will
111 not (A) negatively impact employment in the state over the next five
112 years, (B) lead to any rate increase for any customer or ratepayer of
113 any gas, electric, electric distribution, water, telephone or community
114 antenna television company or holding company which is the subject
115 of the application over the next five years, (C) lead to a decrease in
116 accountability or diminished customer service by such company to any
117 such customer or ratepayer, (D) negatively impact such company's
118 ability to ensure the reliability of its service, or (E) negatively impact
119 such company's ability to prevent, minimize or restore any long-term
120 service outage or disruption caused by any emergency. The authority
121 shall not approve any such application to enter into any merger or
122 acquisition made pursuant to subsection (c) of this section before the

123 authority determines that approval of such application will provide a
124 benefit to Connecticut ratepayers at least as great as any benefit
125 conferred on the ratepayers of any other state by any regulatory
126 approval or agreement concerning such merger or acquisition.

127 (e) During any proceeding under subsection (b) or (c) of this section,
128 the authority may order any party to such proceeding and the officers,
129 directors, employees and agents of such party to refrain for a specific
130 time period from communicating, directly or indirectly, with the
131 record and beneficial owners of securities of the gas, electric, electric
132 distribution, water, telephone or community antenna television
133 company or holding company which is the subject of such
134 proceedings, in regard to the matters submitted to the authority for its
135 approval under said subsection (b) or (c). If the authority issues such
136 an order, it shall also order all other parties to the proceeding and the
137 officers, directors, employees and agents of such parties to refrain for
138 the same time period from communicating, directly or indirectly, with
139 such record and beneficial owners of such securities, in regard to such
140 matters. No order issued pursuant to this subsection shall prohibit any
141 party from complying with disclosure and reporting obligations under
142 any other provision of the general statutes or under federal law.

143 (f) Each holding company shall, not later than three months after the
144 close of its fiscal year, annually, file with the authority a copy of its
145 annual report to stockholders for such fiscal year. If the holding
146 company does not print such an annual report, it shall file instead, not
147 later than the same date, a comprehensive audit and report of its
148 accounts and operations prepared by an independent public
149 accounting firm approved by the authority. The provisions of this
150 subsection shall not apply to any holding company in the form of a
151 person.

152 (g) Any action contrary to the provisions of subsections (b) or (c) of
153 this section shall be voidable on order of the authority.

154 (h) Whenever any corporation, association, partnership, trust or

155 similar organization, or person takes or engages in any action which
156 may or would violate subsection (b) or (c) of this section or any order
157 adopted pursuant to said subsection (b) or (c), the Superior Court,
158 upon application of the authority or any holding company or gas,
159 electric, electric distribution, water, telephone or community antenna
160 television company affected by such action, may enjoin any such
161 corporation, association, partnership, trust or similar organization, or
162 person from continuing or doing any act in violation of said subsection
163 (b) or (c) or may otherwise enforce compliance with said subsection (b)
164 or (c), including but not limited to, the reinstatement of authority or
165 control over the holding company or gas, electric, electric distribution,
166 water, telephone or community antenna television company or
167 holding company to those persons who exercised authority or control
168 over such company before such action.

169 (i) The provisions of this section shall not be construed to require
170 any person to make written application to or obtain the approval of the
171 authority with respect to any telephone company or holding company
172 of a telephone company over which such person exercises authority or
173 control or operates as a holding company on June 30, 1987.

174 (j) Not later than one year after the authority approves any
175 application made under subsection (b) or (c) of this section, and
176 annually thereafter for five years, the applicant of such application
177 shall report to the authority on matters concerning the impact of the
178 approval of such application on the operations of any gas, electric,
179 electric distribution, water, telephone or community antenna television
180 company or holding company which was the subject of the application
181 including, but not limited to, the employment statistics of such
182 company, service rates for any customer or ratepayer of such company
183 and issues concerning customer service, the ability of such company to
184 ensure the reliability of its service and the ability of such company to
185 prevent, minimize or restore any long-term service outage or
186 disruption caused by any emergency.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	16-47
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ET *Joint Favorable Subst.*