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## **OLR Bill Analysis**

**sSB 23 (File 401, as amended by Senate "A")\***

### ***AN ACT ENHANCING EMERGENCY PREPAREDNESS AND RESPONSE.***

#### **SUMMARY:**

This bill requires the Public Utilities Regulatory Authority (PURA) to initiate a proceeding to (1) review electric and gas company emergency preparation and service restoration practices, infrastructure adequacy, and coordination efforts; (2) identify the most cost-effective levels of electric company tree trimming and system hardening needed to achieve maximum system reliability and minimize outages; and (3) establish electric and gas company emergency performance standards. The bill requires PURA to review the companies' performance after an emergency and issue orders to enforce the standards. It also allows PURA to issue civil penalties for violations. The companies must also submit annual reports on their performance during emergencies.

The bill requires PURA to open a proceeding to establish standards for restoring intrastate telecommunications under certain circumstances after an emergency. It also requires telephone telecommunications companies to issue credits to customers who lose service under certain circumstances.

The bill also:

1. increases the frequency with which private and municipal utility companies must file emergency service restoration plans;
2. requires certain telecommunications companies to provide liaisons to electric company emergency response centers under certain circumstances;
3. requires cell phone service providers to report on the backup

power generation capabilities of their cell towers;

4. requires the Department of Energy and Environmental Protection (DEEP), in consultation with the utility companies, the Department of Transportation (DOT), the Department of Emergency Services and Public Protection (DESPP), and an association of municipalities, to develop a procedure for expedited road clearing for public safety personnel after an emergency by January 1, 2013;
5. establishes a pilot program to fund infrastructure for onsite electricity generation for critical facilities (micro-grids);
6. increases communication between the DOT, PURA, municipalities, and utilities to coordinate roadwork and utility line undergrounding; and
7. requires PURA to study the feasibility of creating a program to reimburse residential customers for food and medications lost due to power outages.

It expands the scope of the state's civil preparedness and training requirements by requiring all private utility companies, including electric, gas, telephone, water, and cable TV companies, to comply with the state's comprehensive civil preparedness plan. It also requires all state departments, offices, and agencies to participate in civil preparedness planning, training, and exercises when directed to do so by the DESPP commissioner.

The bill also expands the scope of activities for which the DEEP commissioner can issue temporary authorizations.

By law, the Office of Consumer Counsel (OCC) advocates for consumer interests in matters regarding the regulated utility companies. The bill expands OCC's charge to include rates and related issues, ratepayer-funded programs, and matters related to the utilities' reliability, service quality, infrastructure maintenance, and operations.

\*Senate Amendment "A" replaces the underlying bill (file 401) and

makes numerous changes, including: (1) applying most of the bill's operative provisions to outages affecting more than 10% of a company's customers for more than 48 consecutive hours; (2) establishing separate provisions for telecommunications companies in PURA's review and standard-setting; (3) eliminating fines for telephone companies that violate standards and instead requiring them to provide credits for outages under certain circumstances; (4) limiting the scope of the report on the availability of back-up power at telecommunications towers to companies providing mobile radio (e.g., cell phone) services; (5) increasing funding for the micro-grid program from \$5 million to \$15 million and specifying that this funding must be used for the cost of design, engineering services and interconnection infrastructure for microgrids; (6) requiring PURA to develop procedures to expedite road clearing after an emergency; (7) requiring PURA to study a food and medications reimbursement program; and (8) expanding DEEP's ability to issue temporary authorizations.

EFFECTIVE DATE: Upon passage, except for the provisions regarding civil preparedness planning and training, which are effective July 1, 2012.

### **STORM PREPARATION AND RESPONSE**

The bill requires PURA to initiate a proceeding to establish industry specific standards for acceptable performance by electric and gas companies in an emergency (hurricane, tornado, storm, flood, high water, wind-driven water, snowstorm, drought, fire, explosion, or enemy attack). The standards must (1) protect public health and safety; (2) ensure service reliability; (3) prevent and minimize the number and duration of service outages; (4) facilitate restoration after outages; and (5) identify the optimum levels of tree trimming and system hardening, including putting equipment underground, to maximize system reliability and minimize service outages.

In future rate cases, the bill requires PURA to allow electric or gas companies to recover the reasonable costs they incur by maintaining or improving their infrastructure's resiliency, pursuant to plans that PURA approves, in order to meet the standards that PURA

implements.

PURA must submit a report on the standards and any necessary legislation to the Energy and Technology Committee by November 1, 2012.

***PURA Review***

In preparing the standards, the bill requires PURA to review and analyze:

1. each electric and gas company's current restoration practices following an emergency, including (a) damage and outage estimates made before an emergency, (b) damage and outage assessments made after an emergency, (c) restoration management after an emergency, including any access to other restoration resources provided by regional and reciprocal aid contracts, (d) planning for at-risk and vulnerable customers, (e) communication policies with state and local officials and customers, including individual restoration estimates and the timeliness and usefulness of the estimates, and (f) the need for mutual assistance during an emergency;
2. each electric and gas company's infrastructure, facilities, and equipment, including whether (a) the company follows standard industry practices for their operations and maintenance and (b) the company can access adequate replacement equipment during an emergency;
3. coordination efforts between electric companies, telecommunications companies, and cable TV companies, including pre-emergency planning;
4. each electric company's tree trimming policies, including (a) amounts spent on tree trimming since its last rate case, (b) the average length of outages caused by falling trees and limbs, (c) how expanding the trimming zone around the company's distribution lines would affect ratepayers, infrastructure damage, and equipment, and decrease the frequency and length

of outages, (d) the percentage of outages during Hurricane Irene and the October 2011 snowstorm that were caused by falling trees and limbs outside current trim areas, based on an analysis of the extent and effectiveness of prior tree trimming, and (e) appropriate standards for roadside tree care, vegetation management practices in utility rights-of-way, “right tree-right place,” and any other tree maintenance standards recommended by the State Vegetation Management Task Force; and

5. any other policies, practices, or information relevant to the review.

### ***Electric & Gas Company Performance Standards***

The bill requires PURA to establish minimum performance standards for an electric or gas company’s preparation and service restoration during an emergency in which more than 10% of its customers are without service for more than 48 hours. The standards must include requirements for:

1. minimum staffing and equipment levels for each company, based on the size of its customer base and the nature of its infrastructure;
2. recovery and restoration targets based on outages affecting over 10%, 30%, 50%, and 70% of a company’s customers;
3. a communication plan between the company and its customers that includes communications during non-business hours;
4. safety standards for company employees, mutual aid crews, and private contractors;
5. the filing of mutual aid agreements (which the bill exempts from disclosure under the Freedom of Information Act) and an assessment of each company’s ability to rely on assistance from other regional utilities;

6. communication and coordination protocols between companies and state or local emergency operations centers regarding emergency preparation, road clearing and restoration priorities;
7. electric company tree trimming, cutting, and removal to reduce outages;
8. communication and coordination, in consultation with DESPP, between each company and the public, including standards for using the emergency notification system to notify the public of service restorations and possible dangerous conditions;
9. timely communications between companies and relevant state and local officials regarding emergency coordination and communication;
10. communication and coordination between appropriate electric, gas, and telephone or telecommunication companies or voice over internet protocol (VOIP) providers; and
11. operations of electric and gas company call centers.

The bill also requires PURA to establish any other performance standards to (1) ensure a gas or electric company's reliability during an emergency, (2) prevent outages from lasting over 48 consecutive hours and affecting over 10% of the company's customers, and (3) promote service restoration after an outage. In addition, the bill allows PURA to initiate additional dockets to establish emergency performance standards for electric and gas companies if it determines that a company's changed circumstances requires it.

By April 15, 2013, and annually thereafter, the bill requires electric and gas companies to submit an emergency response report to PURA. The report must include information and analysis regarding how the company complied with the bill's emergency preparation and restoration standards in the previous year. The bill also allows PURA to require any of the companies to submit a supplemental emergency response plan or implementation plan after any storm, emergency, or

event that caused significant outages.

***PURA Performance Review & Penalties***

The bill requires PURA to review each electric or gas company's performance (1) after an emergency in which over 10% of the company's customer lost service for over 48 consecutive hours or (2) at its discretion. If PURA finds that a company failed to comply with any of the bill's emergency preparation and service restoration standards, or any other PURA order, the bill requires it to hold a contested case hearing and issue orders to enforce the standards.

For any related instances of noncompliance, the bill also allows PURA to issue civil penalties against the electric or gas companies of up to \$10,000 per offense and up to a total of 2.5% of their annual distribution revenue. In determining the penalty, the bill requires PURA to consider if it approved the company's efforts and funding allowances to meet infrastructure resiliency standards. The penalties must be paid as a credit to ratepayers and cannot be considered an operating expense that the company can recover in its rates.

***Intrastate Telecommunication Restoration Standards***

The bill requires PURA to initiate a docket to establish standards for restoring intrastate telecommunications services following an emergency, for service provided by telephone companies, certified telecommunications providers, and cable TV companies. The standards can only apply when an outage caused by an emergency (1) affects over 10% of a company's access lines for over 48 consecutive hours and (2) was not caused by the equipment, negligence, or willful act of a customer or third party.

In establishing the standards, the bill requires PURA to consider:

1. the severity, extent, and duration of an emergency;
2. communication and coordination by each company with the state, municipalities, and any relevant electric company;
3. the operations of any call center operated by each company

during an emergency;

4. requirements for each company to assign a representative to staff the emergency operations center of any relevant electric company;
5. service restoration;
6. the safety of the company's customers; and
7. whether restoration of intrastate telecommunications service could not be completed until commercial power was restored.

If PURA finds that a company failed to comply, the bill allows it to submit a report to the Energy and Technology Committee recommending legislation to establish penalties for future noncompliance.

#### ***Telecommunications Billing Credits***

To the extent allowed by federal law, the bill requires telephone companies and certified telecommunications providers to issue credits to customers who lose intrastate telecommunications service during an emergency if (1) the outage lasts over 24 consecutive hours, (2) the customer notifies the company within 30 days of the end of the emergency, (3) the outage was not caused by equipment, negligence, or willful act of the customer or a third party, (4) the outage affected over 10% of the company's access lines, and (5) the outage was not caused by a commercial power outage. The credit must be pro-rated to reflect the portion of the billing period during which the customer was without service. The bill specifically excludes cable TV companies that are already required to provide a similar customer credit under current law.

#### ***Emergency Service Restoration Plans***

By law, private and municipal utility companies must file emergency service restoration plans with PURA, DESPP, and local municipalities every five years. The bill instead requires these plans to be filed every two years, with the next plan due July 1, 2012, and adds

VOIP providers to the utilities subject to the mandate. In addition to the items the law currently requires in the plans, the bill requires them to include (1) communication and coordination measures with state officials, municipalities, and other private utilities and telecommunications companies during a major disaster or emergency, (2) participation in training exercises as directed by the DESSP commissioner, and (3) responses for service outages affecting more than 10%, 30%, 50%, and 70% of customers.

Under the bill, any information provided in the plans is considered confidential, not subject to the Freedom of Information Act, and cannot be transmitted to anyone unless it is needed to comply with the bill. The bill requires PURA, by September 1, 2012, and biannually thereafter, to summarize the plans in a report to the Energy and Technology Committee.

### ***Emergency Operations Center Representatives***

The bill requires telephone companies, certified telecommunications providers, and cable TV companies with more than 25,000 subscribers to provide a liaison to an affected electric company's emergency operations center to ensure communication and coordination during emergency response and restoration efforts. The companies must provide the liaison (1) whenever the governor or president declares an emergency or major disaster or (2) at the DESPP commissioner's discretion.

### **REPORTS ON CELL PHONE SERVICE BACKUP GENERATION**

By October 1, 2012, and annually thereafter, the bill requires each mobile radio (cell phone) service provider to issue a report to the Connecticut Siting Council and DESPP on its ability and plans to provide backup power to its telecommunications towers and antennae during an electricity outage. Under the bill, any information provided in the reports is (1) confidential, (2) exempt from disclosure under the Freedom of Information Act, and (3) cannot be transmitted to anyone else except to comply with the bill's reporting requirement.

Once the initial reports have been submitted, the bill requires the

Siting Council, in consultation with DEEP, DESPP, and PURA, to study the feasibility of requiring backup power for telecommunications towers and antennas. The study must consider (1) federal, state, and local jurisdictional issues, including siting issues; (2) similar laws or initiative in other states; (3) the technical and legal feasibility of such requirements; (4) related environmental issues; and (5) any other issues PURA considers relevant. PURA (presumably the Siting Council) must report its findings and recommendations to the Energy and Technology Committee by January 1, 2013.

### **MICRO-GRID GRANT AND LOAN PILOT PROGRAM**

The bill requires DEEP to establish a microgrid grant and loan pilot program to support onsite electricity generation (up to 65 megawatts) at critical facilities (hospitals, police and fire stations, water and sewage treatment plants, public shelters, correctional facilities, municipal commercial areas, municipal centers identified by a municipality's chief elected official, or other facilities identified by DEEP). Under the bill, a "microgrid" is a group of interconnected electricity users and generators that (1) is within clearly defined electrical boundaries that acts as a single controllable entity in respect to the larger electrical grid and (2) can operate as either a part of the larger grid or independent of it, in "island mode."

The bill's pilot program is open to municipalities, investor-owned electric companies, municipal electric companies that participate in the competitive electricity supply market (none currently do), energy improvement districts, and private entities that propose supporting these facilities by developing micro-grid energy generation or converting existing renewable generation for micro-grid use.

The bill allows the program to issue up to \$15 million in total grants and loans and requires, to the extent possible, that the awards be evenly distributed between small, medium, and large municipalities. The grants and loans can only be used for the costs of microgrid design, engineering services, and interconnection infrastructure. The bill does not specify a funding source for the program, but allows DEEP to establish a financing mechanism to leverage additional

funding that could be used for purposes other than microgrid interconnection infrastructure.

The bill requires any entity that receives a grant or loan under the program to issue an annual report on the project's status to PURA, DEEP, the Office of Consumer Counsel, and the Energy and Technology Committee for five years after receiving the funding. It also requires DEEP, by January 1, 2013, to report to the Energy and Technology Committee on other funding sources needed to expand the program and any necessary legislative changes.

It also requires the Connecticut Academy of Science and Engineering (CASE), in consultation with DEEP, to study how to provide reliable electric services to critical facilities. The study must evaluate the costs and benefits of methods, including the use of microgrids, and make recommendations identifying the most cost-effective and reliable methods. DEEP must submit its findings to the Energy and Technology Committee by January 1, 2013.

#### **ROAD WORK COORDINATION**

The bill requires DOT and any municipality to notify PURA whenever it does road work (1) over five miles long or (2) in a commercial area. PURA must then notify utility companies if it determines that the road work could provide an opportunity to install, replace, upgrade, or bury any of their various infrastructure lines.

#### **ELECTRIC CUSTOMER REIMBURSEMENT STUDY**

The bill requires PURA to study the feasibility of creating a PURA administered program to reimburse residential electric company customers for the loss of refrigerated food and medications caused by electricity outages lasting over 48 hours. In the program (1) reimbursements cannot exceed \$150 for food and \$200 for medications; (2) customer applications for reimbursement must be filed with electric companies within 30 days after service is restored; and (3) customers must submit an itemized list of their spoiled food or medications and proof of the losses.

Under the bill, PURA must submit a report to the Energy and Technology Committee by February 1, 2013, on (1) how it would establish a reimbursement program; (2) the program's application process; (3) each electric company's role in administering the program; (4) the program's funding mechanism and funding cap; (5) the documents needed to prove losses; (6) if the program would be limited to customers within certain income levels; and (7) any necessary legislative changes.

### **DEEP TEMPORARY AUTHORIZATIONS**

By law, the DEEP commissioner can issue a temporary authorization for certain activities that otherwise require general permits if (1) the activity will last for no more than 30 days and will not pose a significant threat to human health and the environment and (2) the authorization is needed to protect the public interest and does not conflict with relevant federal law. The law allows an authorization to be renewed once and prohibits the commissioner from issuing temporary authorizations for the same activity more than once in 12 months.

The bill expands the scope of activities for which the commissioner can issue these authorizations to include minor activities in wetlands and water courses and stream channel encroachment lines. It also (1) increases the amount of time allowed for the authorizations to 90 days, which do not have to be consecutive, (2) ends the commissioner's ability to renew an authorization, and (3) requires 12 calendar months to have passed before the commissioner can issue an authorization for the same activity.

### **COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/28/2012)