
OLR Bill Analysis

sSB 416

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

SUMMARY:

This bill broadens the circumstances under which a merger or acquisition involving a utility holding company requires the Public Utilities Regulatory Authority's (PURA) review and approval. (Northeast Utilities, the parent of Connecticut Light & Power, is an example of a utility holding company). It imposes additional conditions for PURA approval of such mergers or acquisitions and other transactions involving Connecticut utility companies and holding companies.

EFFECTIVE DATE: Upon passage

TRANSACTIONS SUBJECT TO PURA REVIEW AND APPROVAL

The law requires PURA review and approval when:

1. a utility company, holding company, or out-of-state agency (a) interferes with, (b) seeks to interfere with, or (c) exercises or seeks to exercise control over a Connecticut electric, gas, water, telephone, or cable TV company or holding company; or
2. any entity (a) takes actions that make it a holding company that controls a Connecticut utility; (b) acquires control over such a holding company; or (c) takes any action that, if successful, would make it a holding company or give it control over a holding company.

The bill additionally requires PURA review and approval if an entity enters into a merger or acquisition that PURA determines would (1) have any measurable impact on the state's ratepayers and (2) cause

the entity's shareholders to own at least 10% of the shares of a holding company that controls a Connecticut utility. The bill allows PURA to approve any of these transactions in whole or in part, and to impose any terms and conditions it deems necessary or appropriate.

TERMS AND CONDITIONS OF PURA APPROVAL

The bill adds new conditions for PURA approval of any of the above transactions. It bars PURA from approving a transaction unless the applicant sufficiently demonstrates that approval will not

1. negatively impact employment in the state over the next five years,
2. lead to any rate increases over the next five years for any customer or ratepayer of any utility or holding company subject to the application (see COMMENT),
3. lead to a decrease in accountability or diminished customer service to any of the company's Connecticut customers or ratepayers,
4. harm the company's ability to ensure its service reliability, or
5. harm the company's ability to prevent, minimize, or restore any long-term service outage or disruption caused by an emergency.

Prior to approving mergers or acquisitions, the bill also requires PURA to determine that the transaction will provide a benefit to the state's ratepayers at least as great as any benefit conferred on the ratepayers of any other state by any other regulatory approval or agreement concerning the merger or acquisition.

REPORTING REQUIREMENT

Within one year after PURA approves any of the above transactions, and annually thereafter for five years, the bill requires applicants to report to PURA on how the approval impacted any utility company or holding company that was the subject of the application. The report must include the company's employment statistics; customer or

ratepayer service rates; customer service issues; service reliability; and ability to prevent, minimize, or restore any long-term service outages or disruptions caused by emergencies.

COMMENT

Potential Rate Freeze

As noted above, the bill bars PURA from approving a merger or other transaction unless the applicant demonstrates that the approval will not lead to any rate increase for any customer or ratepayer of any utility or holding company that is the subject of the application over the next five years. It is unclear how or if PURA can make this determination conclusively without imposing a rate freeze on the applying entity. State and federal law appear to preclude such rate freezes in several instances.

Federal law (47 U.S.C. § 521 et seq.) significantly restricts the ability of “franchising authorities” (PURA in Connecticut) to regulate cable TV rates. They can only regulate rates for basic service, i.e., the service tier that only includes over-the-air broadcasters and access channels. Even this authority ends once a cable company shows that it is subject to effective competition, as defined in federal law, as several Connecticut companies have. Moreover, PA 07-253 effectively deregulated the cable industry in Connecticut and ended PURA’s ability to regulate rates altogether.

Federal law also:

1. bars states from regulating rates for telecommunications provided by voice over internet protocol (VOIP), e.g., AT&T’s U-Verse service; and
2. requires states to allow electric companies to pass on transmission costs that have been approved by the Federal Energy Regulatory Commission.

Finally, under CGS § 16-19e and related federal law, utilities are entitled to charge rates that allow them to recover costs that the relevant regulatory authority has determined were prudently incurred.

To the extent that a company is unable to recover its costs for a time, the deferred amount becomes a “regulatory asset” (an IOU). The company is allowed to recover this amount later, plus interest.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 14 Nay 7 (03/28/2012)