



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 5, 2013
Energy and Technology Committee

Testimony Submitted by Commissioner Dan Esty
Presented By Deputy Commissioners Katie Dykes and Susan Whalen

RAISED HOUSE BILL 6471 - AN ACT CONCERNING TREE TRIMMING BY UTILITIES

Thank you for the opportunity to present testimony regarding Raised House Bill No. 6471 – AN ACT CONCERNING TREE TRIMMING BY UTILITIES. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

DEEP has serious concerns with this bill as drafted. We remain committed to continuing the state-wide efforts being made by all parties to improve the resiliency of Connecticut's utility infrastructure, but Raised House Bill 6471 significantly and negatively impacts the role of Connecticut's municipal partners in this effort. It also raises practical, fiscal, administrative, and due process concerns that require additional collaboration between DEEP, the utilities, municipal officials and others before any action is taken to advance the procedures proposed in House Bill 6471. In addition, the issue of the proper balance of allocating the costs associated with these resiliency efforts must also be examined to ensure that rate-payers, shareholders, municipalities, and property owners are appropriately contributing adequate resources to this resiliency effort.

As background, on September 13, 2011, Governor Malloy announced the formation of The State Team Organized for the Review of Management (STORM) of Tropical Storm Irene. The eight member Panel was charged with the following mission, "a broad, objective evaluation reviewing how Irene was handled in the state both in preparation and recovery, identify areas that can be improved upon and, most importantly, make recommendations for future disaster preparedness and response." Following the October snow storm, the Governor expanded the work of the Panel, renamed it The Two Storm Panel, and directed it to report its findings to him by the first week of January, 2012.

The Two Storm Panel Report included the following recommendations concerning tree trimming:

- Conduct a state -wide tree risk assessment and prioritization schedule particularly targeting hazardous trees.
- Establish a state-wide Hazardous Tree Removal Fund that will provide matching grants to homeowners for the removal of trees on private property that endanger utility wires.

- 1.5% of all funds approved for utility vegetation management by PURA should be used to fund the private property Hazardous Tree program for 5 years.
- Establish a State Vegetation Management Task Force (SVMTF) that will develop standards for road side tree care in Connecticut, vegetation management practices and schedules for utility rights of way, right tree/right place standards, licensing standards for tree wardens, municipal tree inventories and pruning schedules. This Task Force should consist of State, municipal, utility and nonprofit environmental organizations. The Commissioner of the DEEP or his/her designee should be its Chairperson.
- DEEP should convene appropriate State agencies, municipalities and utilities for the purpose of creating a five year collaborative effort for an enhanced tree maintenance program and the development of an educational effort regarding the use of appropriate and diverse tree species in both public and private spaces.
- At least four entities—electric utilities, municipalities, telecom utilities, and the State of Connecticut—engage in tree trimming/removal activities that may protect the necessary infrastructure. On a semiannual basis, these activities should be coordinated amongst them to maximize the effectiveness of each entity and goals/targets should be established. This activity would be monitored through the SVMTF.
- Increase DOT Tree Maintenance budget by \$1 million a year for three years for road/ tree safety program.
- Legislation should be adopted providing for the removal of “hazard trees” from private property by utilities or municipalities, which should include reasonable protections for property owners.

On March 22, 2012, DEEP Commissioner Daniel C. Esty announced the formation of a Vegetative Management Taskforce noting that “This task force was wisely recommended by Governor Malloy’s Two Storm Panel and we believe the time is right to move forward with it. While the work of this task force is underway, ongoing efforts to address tree maintenance should continue. In the end, however, the recommendations of this task force will be extremely valuable in future decision making about tree maintenance by municipalities, utilities, state government and private property owners.”

The Public Utility Regulatory Authority (PURA) has also been extensively involved with the issue.

Public Act 12-148, An Act Enhancing Emergency Preparedness and Response, requires PURA, in part, to review the performance of the state’s electric distribution companies (EDC) and gas companies, after an emergency when (1) more than 10% of any such company’s customers were without service for more than 48 consecutive hours or (2) at the Authority’s discretion. The PURA currently has two open Dockets where we are investigating the utility company’s performance during Storm Sandy:

- Docket Number 12-11-07 - PURA Investigation into the Performance of Connecticut’s Electric Distribution Companies and Gas Companies in Restoring Service Following Storm Sandy where we are investigating the EDC’s and gas companies’ performance in restoring service following Storm Sandy. The Docket is currently active and no Final Decision has been issued.
- Docket Number 12-11-14 - PURA Investigation into the Performance of Connecticut’s Telecommunications, Cable Television Providers and Water Companies in Restoring Service Following Storm Sandy in which we are investigating the preparedness, service response and communications of the state’s telecommunications, cable television and water companies following the service outages resulting from Storm Sandy. PURA is also reporting on the impact of the storm on the telecommunications, cable television and water public service company infrastructure. The Docket is currently active and no Final Decision has been issued.

Also, PURA established Docket Number 12-01-10 - PURA Investigation into the Tree Trimming Practices of Connecticut's Utility Companies in response to Governor Malloy's storm disaster preparedness and recovery initiative involving tree trimming and preventing excessive infrastructure damage. The Docket is currently active and no Final Decision has been issued.

PURA notes that the new language contained in section (c) of the proposal where PURA must investigate and hold hearings in a very tight timeframe on complaints brought by both property owners and tree wardens would likely result in a significant fiscal impact on PURA.

Finally, in August of last year DEEP's State Vegetation Management Task Force issued several recommendations, some involving tree trimming practices. Some of the salient statewide and municipal recommendations are:

Statewide Recommendations

- Informational resources including frequently asked questions about the roadside forest need to be centralized in a logical place for private landowners, municipalities, businesses, and others.
- The Right Tree, Right Place guidelines must be used for planting trees and shrubs in roadside forest areas where trees have either failed or have to be removed. It is important to note that large trees have an important place in the current and future roadside forest.
- Roadside Forests must be managed to become more storm resistant over time (decades) through a combination of tree pruning, removals and Right Tree, Right Place planting.
- Standards are essential to ensure tree removals are done based upon science-based professional training, shared methods of hazard assessment, and planning for tree replacement.
- Property owners need to be made more aware of the stewardship required to properly maintain trees to maximize benefits and reduce potential community hazards.

Recommendations for Municipalities

- Municipalities are required by law to appoint a tree warden, but there is no requirement that the tree warden have the knowledge and qualifications that the position requires. The Task Force recommends that all tree wardens need to be certified as to their qualifications for the position within 1 year of being appointed.
- Municipalities should develop five-year roadside forest management plans (based upon a model ordinance) that include tree pruning and removal guidelines for trees along public roads; and standards for tree planting that include the avoidance of overhead and underground power and communications lines, road signals and/or the obstruction of other state, municipal or private infrastructure.
- All trees planted within the public right-of-way and on municipal property should be reviewed and approved by the town tree warden.

DEEP requested, and the Environment Committee raised [H.B. No. 6538](#) (RAISED) AN ACT CONCERNING ARBORISTS AND TREE WARDENS. DEEP recommends that this bill be reviewed by members of the Energy and Technology Committee as a reasonable next step in implementing consensus built recommendations on vegetative management.

Clearly more work is needed on improving the resiliency of Connecticut's utility infrastructure, but this bill should be dismissed because of the serious practical, fiscal administrative and due process concerns the bill raises.

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.