



Connecticut Department of

ENERGY &  
ENVIRONMENTAL  
P R O T E C T I O N

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

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ENERGY AND TECHNOLOGY COMMITTEE

TESTIMONY SUBMITTED BY CHAIRMAN ART HOUSE

**RAISED BILL NUMBER 6473 - AN ACT CONCERNING WHISTLEBLOWER PROTECTION, THE PURCHASED GAS ADJUSTMENT CLAUSE, ELECTRIC SUPPLIER DISCLOSURE REQUIREMENTS, THE CALL BEFORE YOU DIG PROGRAM, AND MINOR AND TECHNICAL CHANGES TO THE UTILITY STATUTES**

Good morning/afternoon Senator Duff, Representative Reed and members of the Energy and Technology Committee. Thank you for allowing me the opportunity to present testimony regarding RAISED BILL NUMBER 6473 - AN ACT CONCERNING WHISTLEBLOWER PROTECTION, THE PURCHASED GAS ADJUSTMENT CLAUSE, ELECTRIC SUPPLIER DISCLOSURE REQUIREMENTS, THE CALL BEFORE YOU DIG PROGRAM, AND MINOR AND TECHNICAL CHANGES TO THE UTILITY STATUTES.

The purpose of our proposal is to (1) extend the time period for the Public Utilities Regulatory Authority to make preliminary findings on the validity of a utility employee's complaint that an employer has retaliated against such employee for reporting misconduct, (2) modify provisions of the purchase gas adjustment statute, (3) require electric suppliers to provide certain disclosure and notifications, (4) update definitions and increase civil penalties for violation of the Call Before You Dig program, and (5) make technical and other minor changes to the utility statutes.

## **Section 4 (c and d) - Whistleblower Protections**

Provides additional time for a whistleblower to prepare his filing with PURA and extends the time period for PURA to make a preliminary finding on the validity of and utility employee's complaint that an employer has retaliated against an employee for reporting an employer's misconduct from 30 to 90 business days and permit award of back pay, compensatory damages and attorneys' fees. Current law prohibits utilities and related companies from retaliating against their employees who report their employer's misconduct. The provisions of 6-8a outline PURA's responsibilities and procedures for handling these utility employee whistleblower complaints. This proposal amends the process PURA must follow in responding to complaints by employees alleging such retaliation by extending the time period for PURA to make a preliminary finding on the validity of an employee's complaint from 30 to 90 business days. By law, PURA must begin conducting a full investigation 30 days after making its preliminary determination, where an employer can rebut the presumption that its action was retaliatory. The law also specifies that the employee's return to his previous or comparable position must continue until the full investigation is complete.

### **Outline of Current Preliminary Finding Process**

PURA must notify employer within 5 business days of receiving the employee's complaint

PURA needs to consider written response(s) submitted by the employer within 20 business days of receiving the notice.

Both employer and employee, within this 20-day period can (1) submit rebuttal statements in the form of witness affidavits and supporting documents and (2) meet with PURA to discuss the charges; PURA may consider an employer's written response submitted after the 5 day deadline only for good cause shown.

PURA must consider all of these written and verbal responses in making its preliminary decision as to whether the employer should be required to return the employee to his previous or comparable position.

As shown by timeline described above, and based upon its actual experience, PURA has found the current 30 day statutory window for making a preliminary finding to be grossly inadequate. In short, no meaningful or credible investigation into a complaint can be reasonably performed within the existing time period. In particular, as one can imagine, it is almost impossible to seek additional input from the employee and actually issue a preliminary determination in the last 5 days (after 20-day window for employer filings) in order to meet the current 30 day deadline. Therefore, to enhance the likelihood that employee interests (and also ratepayer interests) are not harmed by this unrealistic timeline, PURA seeks to extend the statutory deadline to issue a preliminary finding from 30 to 90 business days.

## **Section 5(a) – Notice Requirements for Customers of Proposed Change in Rates**

Modifies existing statutory provisions that describe the timing and information to be provided by utility companies when they provide notice to their customers that they have filed an application with PURA to amend their rates.

Modifies current law that outlines the timing and information to be provided by utility companies when they provide notice to their customers that they have filed an application with PURA to amend their rates. With this proposed change, PURA is seeking to address the shortcomings in the current open-ended timing structure which frequently can result in customer notices being issued so far in advance of the public hearings that attendance and customer participation is not appropriately encouraged. Under current law, there is no requirement that customer notices include important information like the date, time, and location of scheduled public hearings. This additional information should be provided to customers because the public hearing schedule is established well in advance of the actual public hearings. This proposed change will assist customers by requiring that this important information be included on customer notices in a timelier manner. As is currently the case, customers will also be able to contact PURA directly if they need more information about the public hearings. Lastly, under current law, the wording of customer notices states that customers can obtain additional information about utility rate filings and the public hearing schedule by calling PURA. As a result of this written description, customers frequently call our Consumer Service Unit hoping to have their comments on company's rate filings made part of PURA's docket record. These customers are then frustrated to learn that legally in order for their comments to be included in PURA's docket record- their comments need to be filed in writing or made in person at a hearing of the particular rate case that they have a concern about. This proposed change will assist customers by requiring customer notices to clearly state the manner in which input can be appropriately provided to PURA for those customers who desire to participate in PURA's ratemaking process. One final note. Our original proposed language regarding timing of the notice stated: "but no earlier than six weeks prior to the start of the first evening public hearing(s)". However, the raised bill reads as follows:  
"but not earlier than six weeks prior to the public hearing"

Second, our proposed language stated:

"(1) the date(s), time(s), and location(s) of the scheduled public hearings,"

The raised bill modified it slightly by removing the plural forms:

"(1) the date, time, and location of the scheduled public hearing"

Knowing that the Authority will hold multiple hearings in many proceedings, the raised bill may need to be revised accordingly.

## **Section 6 (h) – Streamline the Purchased Gas Adjustment Clause Procedures –**

Modifies the provisions of PURA purchased gas adjustment clause (PGA) statute by: 1) requiring PURA to hold a public hearing no less than annually on the PGA in lieu of the current 6-month public hearing requirement, and 2) specifying that PURA is required to hold a public hearing on the PGA at any time if the Office of Consumer Counsel files an application requesting such a hearing. In general, natural gas customers pay for their fuel through two primary components on their utility bills: a base rate and the purchase gas adjustment clause (PGA). The base rate includes an estimate of fuel prices for the 12 month period following a general rate decision. The PGA adjusts the fuel portion of base rates to reflect the actual fuel costs incurred by the local distribution company (LDC). The PGA can appear on customer bills as a credit if fuel prices have decreased or charge, if the fuel costs have increased since the setting of base rates. Every month, the state's three gas distribution companies (Connecticut Natural Gas, Southern Connecticut Gas and Yankee Gas) file with PURA their proposed PGA for the following month. PURA reviews these proposed monthly PGA figures and, if necessary or requested to do so by the Office of Consumer Counsel (OCC), holds an administrative proceeding on these filings. Following PURA approval, the LDCs charge natural gas customers at the newly adjusted monthly PGA level. Semi-Annual PGA Investigations

Currently, in each calendar year PURA is required to conduct two investigations to determine the accuracy of the previous six-month PGA collection level. The first proceeding covers the period September 1 through the end of February. The second proceeding includes the period March 1 through August 31. The second proceeding also includes a further true-up of actual fuel costs and recovery based on the difference between the PGA approved by the Department and the actual amount of money collected through the PGA. This PGA true-up is called the deferred gas cost factor. Once set, the deferred gas cost factor is recovered over the following 11 months. PURA reviews and if necessary makes adjustments to the deferred gas cost factor after it considers the experience of the previous 12 months of PGA recovery.

The basis for proposed change is that the existing provisions for the PGA require semi-annual proceedings. These semi-annual periods covered do not reflect actual natural gas industry practices. Rather, natural gas industry fuel planning is annual, normally November 1 through October 31. Fuel used in the winter is more expensive, and includes fuel "saved up" from the previous summer. Summer fuel is less expensive and is "put aside" for use the following winter. Therefore, no six-month period can accurately reconcile the planning and purchase of fuel and the period in which it is consumed or recovered. Only an annual PGA review can accurately match the gas industry's operating practices and the manner in which fuel is bought, consumed and costs recovered from ratepayers. Under the current six-month investigation parts of the review are redundant because much of the earlier period's information must be reviewed again. As a result, PURA staff, LDCs, and other participants must dedicate significant resources twice a year to review fuel costs and the recovery of these costs. PURA believes that by allowing an annual review great administrative efficiency can be attained while improving accuracy and minimizing the mismatch of data review and cost

recovery. It is also important to note, that by issuing a formal decision in the first semi-annual investigation, PURA is prevented from revisiting approved PGAs from an earlier period even if a review of the full annual gas industry operating cycle would suggest an adjustment should have been made.

As a result of the proposed change, PURA recognizes that circumstances will arise that will justify a hearing on the PGA prior to the annual review proceeding. To address this issue, this proposal modifies the current statute to specify that PURA is required to hold a public hearing on the PGA at anytime if the Office of Consumer Counsel files an application requesting that we do so.

Through these various proposed changes; PURA seeks to modify the existing statute in the interest of improving the annual PGA process for PURA, the gas companies and the State's natural gas customers.

### **Section 12 (f) (5 and 6) – Suppliers Notifying Customers of Rate Changes and Disclosing Renewable Energy Sources**

Proposed amendment to §16-245o requires electric suppliers to: (1) notify customers of rate changes at least three weeks prior to charging the customer a new rate; (2) disclose the specific type and percentage of any voluntary renewable energy source offered beyond the mandated level (voluntary green products); and (3) submit standard contracts and marketing materials for voluntary green products for Authority's prior approval. This proposal also restricts electric suppliers from advertising or charging a premium for any renewable energy credits that is not approved as a Connecticut renewable energy credit (the current CT approved RECs are Class I, II or III RECs). The proposal also transfers responsibility from DEEP to PURA to reflect current practice. This proposal is intended to combat the "teaser rate" problem existing in the electric generation market. A number of electric suppliers have been advertising a very low rate, then after one month, the suppliers would impose a rate hike (up to 100%) without informing the customers. This proposal would require the supplier to notify the customers of the rate increase with sufficient time for customers to change electric suppliers prior to the rate increase being implemented. This proposal is also intended to combat the problem of suppliers advertising and selling "voluntary green" products where such "green" attributed cannot be verified. Under this proposal, electric suppliers are permitted to advertise and charge a premium for only Class I, II or III renewable energy credits because these are monitored and approved by the Authority.

## Sections 15 – 25 – Improvements to CBYD (Underground Damage Prevention Program) Laws

Increases the maximum civil penalty for violations of these Statutes and associated regulations and updates definitions to reflect current practices and technologies.

It has been many years since the underground damage prevention statutes and regulations have been updated. In light of new technology, new federal government regulations and increased public concern over excavation damage, it is time to revise these statutes and regulations. It is important to note that a failure to strengthen these provisions most likely would result in decreased federal grant funding. If these changes are approved, PURA anticipates proposing changes to the regulations after the effective date of the statutory revisions. Some of the definitions have been updated to reflect current practices, such as exempting homeowners from being considered a 'public utility'. The exemption for tilling for agricultural purposes has been removed in anticipation of a modification to regulations creating a new method of coordination between farmers and public utilities.

We also have two suggested changes to the CBYD portion of the bill.

1. The original PURA proposal clarified the language in the definition of "Approximate location of underground facilities" since the existing definition did not make sense. It is important that this change be made so that the 'approximate location' is tied to the actual location of the facility.

Here is our proposed language:

16-345-8 "Approximate location of underground facilities" means a strip of land not more than three feet wide **centered on the actual location of an underground utility facility** or a strip of land extending not more than one and one-half feet on either side of the **actual location of an** underground [facilities.]**Utility facility.**

2. In the proposed bill, it is critical that the 'and' be changed back to 'or' as proposed by PURA. For many utility facilities, the owner and operator are different parties. For example, the Iroquois Gas Transmission Pipeline is owned by Iroquois Gas Transmission System, L.P., but is operated by Iroquois Pipeline Operating Company. If the wording stays as 'and', the Iroquois pipeline would not need to be registered with the clearinghouse since no single party owns and operates the pipeline.

## **Section 26 – Clarification to Customer Security Deposit Requirements**

Clarifies current law and current practices by adding references to Department of Banking at appropriate point in the statute that states the basis upon which interest on utility customer security deposits is to be calculated.

Currently, section 16-262j specifies the standard by which interest on utility customer security deposits is to be calculated. In several locations in this section, the statutory provisions make alternative references to the Federal Reserve Bulletin and the CT Banking Commissioner as the basis for determining the appropriate interest rate. As a result of this fragmented statutory drafting, in looking to the statute for guidance on the matter utility customers and companies are frequently confused. The Public Utilities Regulatory Authority regularly receives utility customer and utility company inquiries concerning the amount of interest that utilities pay on customer deposits. In accordance with current law, the Public Utilities Regulatory Authority relies upon the CT Banking Department's deposit index (information posted on Banking Department website) when questions arise about interest rate levels. Therefore, in the interest of eliminating this confusion the Public Utilities Regulatory Authority seeks to better clarify current law and current practices by adding references to the Department of Banking at appropriate point in the statute.

Thank you for allowing me the opportunity to present testimony regarding this bill.

That concludes my testimony and I am available to answer any questions you have.

