

**The Energy and Technology Committee**

**Public Hearing, February 7, 2013**

**Office of Consumer Counsel**

**Elin Swanson Katz, Consumer Counsel**

Testimony of Richard E. Sobolewski

**S.B. 807**

***An Act Concerning Water Infrastructure and Conservation, the Department Of Public Health, Municipal Reporting Requirements and Unpaid Utility Accounts at Multi-Family Dwellings.***

The Office of Consumer Counsel (OCC) has carefully reviewed Raised Bill No. 807, *An Act Concerning Water Infrastructure and Conservation, the Department Of Public Health, Municipal Reporting Requirements and Unpaid Utility Accounts at Multi-Family Dwellings*. While OCC supports a number of aspects of this proposed legislation, it also has major concerns and questions about other parts of the bill.

The Office of Consumer Counsel has worked with members of the Water Planning Council Advisory Group on the proposed statutory language that appears in Sections 8 – 11 of this bill, relating to water system acquisitions and unpaid water utility bills in multi-family dwellings. OCC would be supportive of adoption of these sections. We note that encouraging water system acquisitions is often a positive in the long run for all customers involved, as more effective and well-financed utilities take over from struggling utilities.

OCC has some concerns with Section 2 of the Bill, which seeks to connect water conservation and the Energy Conservation Management Board. While OCC has a long-history of advocating for state policies, initiatives, and rate designs that encourage water and energy conservation, OCC questions the appropriateness and manner in which Connecticut's investor owned water companies would fund conservation programs through the Energy Conservation Management Board. For example, OCC has concerns about subsidizing purchase of low-flow water devices and fixtures. In advance of the federal government, over twenty years ago, Connecticut changed its

plumbing code whereby only low-flow water devices and fixtures are available to be purchased. Since low-flow equipment is the only type available for purchase, OCC questions the need and appropriateness of having water utility ratepayers being burdened with subsidizing such purchases absent a projected water supply shortage. We also have concerns about potential cross-subsidies. Only about one-quarter of the State's residents are customers of the investor owned water companies who are state-regulated, while the rest have private wells or are customers of municipal or regional systems. We are concerned that customers of investor-owned systems will be the only ones charged with funding the water conservation programs, with a share of the benefits going to residents on private wells or that are customers of municipal or regional water authorities who would not be subject to such state-imposed charges.

Section 3 of SB-807 as proposed requires decoupling for water utilities in the form of a sales adjustment clause that would make water utilities whole between rate cases for any decreases in usage. While decoupling has been justified as a means to avoid a situation where utilities have an incentive to block conservation programs, a full sales adjustment clause makes the utility whole regardless of whether decreased usage was caused by weather or economic conditions rather than conservation. Indeed, this proposed legislation would give water utilities full decoupling regardless of whether the water utilities make any effort to promote conservation programs. It also would operate as a "heads I win, tails you lose" scenario in favor of water utilities and against customers, in that such utilities would not have to give back excess revenues if customer usage actually increases, and because implementation of decoupling outside of a PURA rate case would shift risk from company shareholders to ratepayers without allowing an appropriate adjustment to the company's return on equity to reflect its decreased risk. If the proposal was limited to lost revenues associated with conservation programs, efforts to reduce usage in supply-constrained systems, or similar efforts to reduce demand, OCC would be much more supportive. Respectfully, OCC maintains that the choice of the most appropriate form of decoupling, and to what extent the return on equity should be adjusted to reflect the company's lowered risk, should be done only in a PURA rate case, and that any decoupling requirement should be drafted in a way that gives PURA some flexibility. Allowing water companies to

implement a sales adjustment clause outside a PURA rate case and potentially years after a rate case is litigated violates long-standing policies such as the prohibitions against retroactive ratemaking and single-issue ratemaking.