



Substitute House Bill No. 5408

Public Act No. 14-151

AN ACT CONCERNING TREE TRIMMING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 16-32h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) The authority shall, in the docket initiated pursuant to subsection (b) of this section, review:

(1) Each such utility's current practices concerning service restoration after an emergency. Such review shall include, but not be limited to, an analysis of each such utility's (A) estimates concerning potential damage and service outages prior to any emergency, (B) damage and service outage assessments after any emergency, (C) restoration management after any emergency, including access to alternate restoration resources via regional and reciprocal aid contracts, (D) planning for at-risk and vulnerable customers, (E) policies concerning communication with state and local officials and customers, including individual customer restoration estimates and the timeliness and usefulness of such estimates, and (F) need for mutual assistance during any emergency;

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(2) The adequacy of each such utility's infrastructure, facilities and equipment, which shall include, but not be limited to, an analysis of (A) whether such utility is following standard industry practice concerning operation and maintenance of such infrastructure, facilities and equipment, and (B) whether such utility had access to adequate replacement equipment for such infrastructure, facilities and equipment during the course of such emergency;

(3) Coordination efforts between each electric distribution company and any telecommunications company, community antenna television company, holder of a certificate of cable franchise authority or certified competitive video service provider, as those terms are defined in section 16-1, including coordinated planning before any emergency;

(4) Tree trimming policies of each electric distribution company and shall determine (A) the amount spent by each electric distribution company for tree trimming in each year since such company's most recent rate case, (B) each such company's system average interruption duration index, as described in section 16-245y, caused by falling trees and limbs, (C) the impact of expanding the area adjacent to distribution lines for tree trimming, including an analysis of the benefits and the costs of such expansion to ratepayers and the likelihood that such expansion would decrease damage to infrastructure, facilities and equipment used to distribute electricity and decrease service outage frequency or duration, (D) the percentage of service outages during Tropical Storm Irene and the October, 2011 snowstorm caused by trees and limbs outside the current trim area based on an analysis of the quantity and effectiveness of prior tree trimming, and (E) the standards appropriate for road-side tree care in the state, vegetation management practices in utility rights-of-way, right tree-right place standards, and any other tree maintenance standard recommended by the State Vegetation Management Task Force established by the Department of Energy and Environmental

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Protection; [and]

(5) The use of mediation in resolving objections to proposed activities relating to vegetation management, as defined in section 16-234, as amended by this act, and the circumstances in which stump grinding may be performed within the utility protection zone, as defined in section 16-234, as amended by this act, provided, the utility, as defined in section 16-234, as amended by this act, shall recover all reasonable incremental costs incurred by such utility pursuant to the directives of the authority, as established pursuant to this subdivision, through the non-bypassable federally mandated congestion charge, as defined in subsection (a) of section 16-1; and

~~[(5)]~~ (6) Any other policy, practice or information that the authority determines is relevant to a review of each such utility's ability to ensure the reliability of such utility's services in an emergency and to prevent, minimize and restore any long-term service outages or disruptions caused by such emergency.

Sec. 2. (NEW) (*Effective from passage*) On and after the effective date of this section, the Department of Energy and Environmental Protection shall review the vegetation management practices of each electric distribution company. Not later than one year after the final decision has been issued by the Public Utilities Regulatory Authority for the docket described in subsection (c) of section 16-32h of the general statutes, as amended by this act, and every two years thereafter, the authority shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to energy. Such report shall include a review of the vegetation management practices of each electric distribution company.

Sec. 3. Section 16-234 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective*

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from passage):

(a) As used in this section:

(1) "Utility" means a telephone, telecommunications, electric or electric distribution company, each as defined in section 16-1;

(2) "Utility protection zone" means any rectangular area extending horizontally for a distance of eight feet from any outermost electrical conductor or wire installed from pole to pole and vertically from the ground to the sky;

(3) "Hazardous tree" means any tree or part of a tree that is (A) dead, (B) extensively decayed, or (C) structurally weak, which, if it falls, would endanger utility infrastructure, facilities or equipment;

(4) "Vegetation management" means the retention of trees and shrubs that are compatible with the utility infrastructure and the pruning or removal of trees, shrubs or other vegetation that pose a risk to the reliability of the utility infrastructure. [, and the retention of trees and shrubs that are compatible with the utility infrastructure.] Until such time as the Department of Energy and Environmental Protection issues standards for identifying such compatible trees and shrubs, the standards and identification of such compatible trees and shrubs shall be as set forth in the 2012 final report of the State Vegetation Management Task Force; [and]

(5) "Pruning" means the selective removal of plant parts to meet specific utility infrastructure reliability goals and objectives, when performed according to current professional tree care standards [.] and in a manner that retains the structural integrity and health of the vegetation;

(6) "Abutting property owner" means the owner of the property abutting or adjacent to that portion of a public road, public highway or

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public grounds where the tree or shrub that the utility proposes to remove or prune is located; and

(7) "Private property owner" means the owner of the property where a tree or shrub the utility proposes to remove or prune is located, which may include municipally owned land.

(b) A utility may perform vegetation management within the utility protection zone, as necessary, to secure the reliability of utility services. [by protecting overhead wires, poles, conductors or other utility infrastructure from trees and shrubs, parts of trees and shrubs or other vegetation located within the utility protection zone.]

(c) (1) In conducting vegetation management, no utility shall prune or remove any tree or shrub within the utility protection zone, or on or overhanging any public road, public highway or public ground, without delivering notice of the proposed vegetation management to the abutting property owner or private property owner. Such notice shall include the option for the abutting property owner or private property owner to consent, in writing, to such proposed pruning or removal, object to such proposed pruning or removal or modify such proposed pruning or removal. The notice shall include instructions regarding how the recipient may object in accordance with subdivision (3) of this subsection. Such notice shall also include a statement that if a person objects to the proposed pruning or removal, and such tree falls on any utility infrastructure, such person shall not be billed by the utility for any resulting damage. If requested by an owner of private property, the utility, municipality or the Commissioner of Transportation, as appropriate, shall provide such owner with information regarding whether a tree or shrub to be pruned or removed is in the public right-of-way or whether such tree or shrub is on such owner's private property.

(2) Notice shall be considered delivered when it is (A) mailed to the

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abutting property owner or private property owner via first class mail, electronic mail or text message, (B) delivered, in writing, at the location of the abutting property or private property owner, or (C) simultaneously conveyed verbally and provided in writing to the abutting property owner or private property owner. A utility shall deliver such notice to the abutting property owner [if (i) pursuant to subparagraph (A) or (B) of this subdivision,] or private property owner at least fifteen business days before the starting date of any such pruning or removal. [, and (ii) pursuant to subparagraph (C) of this subdivision, at any time before any such pruning or removal, provided no utility may start such pruning or removal unless (I) the objection period pursuant to subdivision (2) of this subsection has been met, or (II) such property owner affirmatively waives, in writing, the right to object.]

[(2)] (3) The notice shall indicate that (A) objection to pruning or removal shall be filed, in writing, with the utility and either the tree warden of the municipality or the Commissioner of Transportation, as appropriate, not later than ten business days after delivery of the notice, and (B) the objection may include a request for consultation with the tree warden or the Commissioner of Transportation, as appropriate. For purposes of this section, an abutting property owner may file an objection or request for modification by (i) sending a written objection or request for modification to the utility or tree warden at the address for each specified on the notice, provided if the written objection is mailed, it shall be deemed received on the date it is postmarked, or (ii) sending by electronic mail an objection or request for modification to the dedicated electronic mail address maintained by the utility as specified on the notice.

(4) The utility shall not prune or remove any tree or shrub that is outside of the public right-of-way unless it receives written affirmative consent from the private property owner to whom notice is required in

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accordance with subdivision (2) of this subsection.

~~[(3)]~~ (5) If no objection is filed by the abutting property owner in accordance with subdivision ~~[(2)]~~ (3) of this subsection, the utility may prune or remove the trees or shrubs for which notice of pruning or removal has been delivered, provided the utility has also received a permit as required by subsection (f) of section 23-65, as amended by this act. Nothing in this chapter shall be construed to limit the power and authority of a tree warden as set forth in subsection (f) of section 23-65.

~~[(4)]~~ (6) If the abutting property owner files an objection or request for modification pursuant to subdivision ~~[(2)]~~ (3) of this subsection, or if the utility does not accept the modification to the original notice, as described in subdivision (1) of this subsection, the tree warden of the municipality or the Commissioner of Transportation, as appropriate, shall issue a written decision as to the disposition of the tree or shrub not later than ten business days after the filing date of such objection. This decision shall not be issued before a consultation with the abutting property owner if such a consultation has been requested. The abutting property owner or the utility may appeal the tree warden's decision to the Public Utilities Regulatory Authority within ten business days after the tree warden's decision. ~~[The]~~

(A) Prior to the final decision in the docket described in subsection (c) of section 16-32h, as amended by this act, the authority shall hold a hearing within sixty [business] calendar days of receipt of the abutting property owner's or utility's written appeal of the tree warden's decision and shall provide notice of such hearing to the abutting property owner, the tree warden or the Commissioner of Transportation, as appropriate, and the utility. The authority may authorize the pruning or removal of any tree or shrub whose pruning or removal has been at issue in the hearing if it finds that public convenience and necessity ~~[require]~~ requires such action. The burden

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of proving that public convenience and necessity requires such action shall be on the utility.

(B) On and after the effective date of the final decision issued in the docket described in subsection (c) of section 16-32h, as amended by this act, the entity designated by the authority, as determined by such docket, shall hold a mediation session not later than thirty calendar days after receipt of the abutting property owner's or utility's appeal of the tree warden's or the Commissioner of Transportation's decision and shall provide notice of such mediation session to the abutting property owner, the tree warden or the Commissioner of Transportation, as appropriate, and the utility, provided the abutting property owner may opt not to utilize such mediation session and proceed to the hearing described in this subparagraph. In the event that the appeal is not settled by mediation, or the abutting owner elects not to use such mediation session, the authority shall hold a hearing not later than thirty calendar days after the conclusion of the mediation session, or within sixty calendar days of the receipt of the abutting property owner's written appeal if there is no mediation session, and shall provide notice of such hearing to the abutting property owner, the tree warden, or the Commissioner of Transportation, as appropriate, and the utility. The authority may authorize the pruning, removal or stump grinding of any tree or shrub whose pruning or removal has been at issue in the hearing if it finds that public convenience and necessity requires such action. The burden of proving that public convenience and necessity requires such action shall be on the utility.

[(5)] (7) When an objection or request for modification has been filed pursuant to subdivision [(2)] (3) of this subsection, no tree or shrub subject to the objection or request for modification shall be pruned or removed until a final decision has been reached pursuant to subdivision [(4)] (6) of this subsection.

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(d) [No utility shall be required to provide notice pursuant to subsection] Subsection (c) of this section shall not apply if the tree warden of the municipality or the Commissioner of Transportation, as appropriate, authorizes, in writing, pruning or removal by the utility of a hazardous tree within the utility protection zone or on or overhanging any public highway or public ground. If the hazardous tree is outside of the public right-of-way, the utility shall make a reasonable effort to notify the property owner of the proposed pruning or removal at least three days prior to performing such pruning or removal. Nothing in this subsection shall be construed to require a utility to prune or remove a tree.

(e) No utility shall be required to obtain a permit pursuant to subsection (f) of section 23-65 or provide notice under subsection (c) of this section to prune or remove a tree, as necessary, if any part of a tree is in direct contact with an energized electrical conductor or has visible signs of burning. Nothing in this subsection shall be construed to require a utility to prune or remove a tree.

(f) No utility shall exercise any powers which may have been conferred upon it to change the location of, or to erect or place, wires, conductors, fixtures, structures or apparatus of any kind over, on or under any public road, public highway or public ground, without the consent of the adjoining proprietors or, if such company is unable to obtain such consent, without the approval of the Public Utilities Regulatory Authority, which shall be given only after a hearing upon notice to such proprietors. The authority may, if it finds that public convenience and necessity require, authorize the changing of the location of, or the erection or placing of, such wires, conductors, fixtures, structures or apparatus over, on or under such public road or highway or public ground.

(g) Each utility shall operate an electronic mail account to receive objections, requests for modification, inquiries or complaints pursuant

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to subsections (a) to (f), inclusive, of this section.

Sec. 4. Subsection (f) of section 23-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) Any person, firm or corporation, other than a tree warden or his deputy, who desires the cutting or removal, in whole or in part, of any tree or shrub or part thereof within the limits of any public road or grounds, may apply in writing to the town tree warden, the borough tree warden or the Commissioner of Transportation or other authority having jurisdiction thereof for a permit so to do. Upon receipt of such permit, but not before, [he] the applicant may proceed with such cutting or removal, provided doing so is also consistent with section 16-234, as amended by this act, if applicable. Before granting or denying such permit, such authority may hold a public hearing as provided in section 23-59. [, and when] When the applicant is a public utility corporation, the party aggrieved by such decision may, within ten days, appeal therefrom to the Public Utilities Regulatory Authority, which shall have the power to review, confirm, change or set aside the decision appealed from and its decision shall be final. The burden of proving that public convenience and necessity requires the proposed cutting or removal shall be on the utility. This appeals process shall be in addition to the powers granted to [it] the Public Utilities Regulatory Authority under section 16-234, provided, if an application for such permit has been made to either a tree warden or the Commissioner of Transportation or other authority and denied by him, an application for a permit for the same relief shall not be made to any other such authority. Upon any approval of such a permit by the Commissioner of Transportation, he shall notify the tree warden for the town in which the tree is located. Upon any approval of such a permit by the Commissioner of Transportation, the permittee shall notify the tree warden for the town in which the tree is located prior to cutting any

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such tree.

Approved June 6, 2014