



General Assembly

Amendment

February Session, 2014

LCO No. 5156

HB0540805156HDO

Offered by:

REP. SHARKEY, 88th Dist.
SEN. LOONEY, 11th Dist.
REP. D'AGOSTINO, 91st Dist.
REP. REED, 102nd Dist.
SEN. DUFF, 25th Dist.

To: Subst. House Bill No. 5408

File No. 406

Cal. No. 241

"AN ACT CONCERNING TREE TRIMMING."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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4 repealed and the following is substituted in lieu thereof (*Effective from*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

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

8 (1) Each such utility's current practices concerning service
9 restoration after an emergency. Such review shall include, but not be
10 limited to, an analysis of each such utility's (A) estimates concerning
11 potential damage and service outages prior to any emergency, (B)

12 damage and service outage assessments after any emergency, (C)
13 restoration management after any emergency, including access to
14 alternate restoration resources via regional and reciprocal aid
15 contracts, (D) planning for at-risk and vulnerable customers, (E)
16 policies concerning communication with state and local officials and
17 customers, including individual customer restoration estimates and
18 the timeliness and usefulness of such estimates, and (F) need for
19 mutual assistance during any emergency;

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

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

32 (4) Tree trimming policies of each electric distribution company and
33 shall determine (A) the amount spent by each electric distribution
34 company for tree trimming in each year since such company's most
35 recent rate case, (B) each such company's system average interruption
36 duration index, as described in section 16-245y, caused by falling trees
37 and limbs, (C) the impact of expanding the area adjacent to
38 distribution lines for tree trimming, including an analysis of the
39 benefits and the costs of such expansion to ratepayers and the
40 likelihood that such expansion would decrease damage to
41 infrastructure, facilities and equipment used to distribute electricity
42 and decrease service outage frequency or duration, (D) the percentage
43 of service outages during Tropical Storm Irene and the October, 2011
44 snowstorm caused by trees and limbs outside the current trim area

45 based on an analysis of the quantity and effectiveness of prior tree
46 trimming, and (E) the standards appropriate for road-side tree care in
47 the state, vegetation management practices in utility rights-of-way,
48 right tree-right place standards, and any other tree maintenance
49 standard recommended by the State Vegetation Management Task
50 Force established by the Department of Energy and Environmental
51 Protection; [and]

52 (5) The use of mediation in resolving objections to proposed
53 activities relating to vegetation management, as defined in section 16-
54 234, as amended by this act, and the circumstances in which stump
55 grinding may be performed within the utility protection zone, as
56 defined in section 16-234, as amended by this act, provided, the utility,
57 as defined in section 16-234, as amended by this act, shall recover all
58 reasonable incremental costs incurred by such utility pursuant to the
59 directives of the authority, as established pursuant to this subdivision,
60 through the non-bypassable federally mandated congestion charge, as
61 defined in subsection (a) of section 16-1; and

62 [(5)] (6) Any other policy, practice or information that the authority
63 determines is relevant to a review of each such utility's ability to
64 ensure the reliability of such utility's services in an emergency and to
65 prevent, minimize and restore any long-term service outages or
66 disruptions caused by such emergency.

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

78 management practices of each electric distribution company.

79 Sec. 3. Section 16-234 of the 2014 supplement to the general statutes
80 is repealed and the following is substituted in lieu thereof (*Effective*
81 *from passage*):

82 (a) As used in this section:

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

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

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

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

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

107 (6) "Abutting property owner" means the owner of the property
108 abutting or adjacent to that portion of a public road, public highway or
109 public grounds where the tree or shrub that the utility proposes to
110 remove or prune is located; and

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

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

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

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

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

153 [(2)] (3) The notice shall indicate that (A) objection to pruning or
154 removal shall be filed, in writing, with the utility and either the tree
155 warden of the municipality or the Commissioner of Transportation, as
156 appropriate, not later than ten business days after delivery of the
157 notice, and (B) the objection may include a request for consultation
158 with the tree warden or the Commissioner of Transportation, as
159 appropriate. For purposes of this section, an abutting property owner
160 may file an objection or request for modification by (i) sending a
161 written objection or request for modification to the utility or tree
162 warden at the address for each specified on the notice, provided if the
163 written objection is mailed, it shall be deemed received on the date it is
164 postmarked, or (ii) sending by electronic mail an objection or request
165 for modification to the dedicated electronic mail address maintained
166 by the utility as specified on the notice.

167 (4) The utility shall not prune or remove any tree or shrub that is
168 outside of the public right-of-way unless it receives written affirmative
169 consent from the private property owner to whom notice is required in
170 accordance with subdivision (2) of this subsection.

171 [(3)] (5) If no objection is filed by the abutting property owner in

172 accordance with subdivision [(2)] (3) of this subsection, the utility may
173 prune or remove the trees or shrubs for which notice of pruning or
174 removal has been delivered, provided the utility has also received a
175 permit as required by subsection (f) of section 23-65, as amended by
176 this act. Nothing in this chapter shall be construed to limit the power
177 and authority of a tree warden as set forth in subsection (f) of section
178 23-65.

179 [(4)] (6) If the abutting property owner files an objection or request
180 for modification pursuant to subdivision [(2)] (3) of this subsection, or
181 if the utility does not accept the modification to the original notice, as
182 described in subdivision (1) of this subsection, the tree warden of the
183 municipality or the Commissioner of Transportation, as appropriate,
184 shall issue a written decision as to the disposition of the tree or shrub
185 not later than ten business days after the filing date of such objection.
186 This decision shall not be issued before a consultation with the
187 abutting property owner if such a consultation has been requested. The
188 abutting property owner or the utility may appeal the tree warden's
189 decision to the Public Utilities Regulatory Authority within ten
190 business days after the tree warden's decision. [The]

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

203 (B) On and after the effective date of the final decision issued in the
204 docket described in subsection (c) of section 16-32h, as amended by

205 this act, the entity designated by the authority, as determined by such
206 docket, shall hold a mediation session not later than thirty calendar
207 days after receipt of the abutting property owner's or utility's appeal of
208 the tree warden's or the Commissioner of Transportation's decision
209 and shall provide notice of such mediation session to the abutting
210 property owner, the tree warden or the Commissioner of
211 Transportation, as appropriate, and the utility, provided the abutting
212 property owner may opt not to utilize such mediation session and
213 proceed to the hearing described in this subparagraph. In the event
214 that the appeal is not settled by mediation, or the abutting owner elects
215 not to use such mediation session, the authority shall hold a hearing
216 not later than thirty calendar days after the conclusion of the
217 mediation session, or within sixty calendar days of the receipt of the
218 abutting property owner's written appeal if there is no mediation
219 session, and shall provide notice of such hearing to the abutting
220 property owner, the tree warden, or the Commissioner of
221 Transportation, as appropriate, and the utility. The authority may
222 authorize the pruning, removal or stump grinding of any tree or shrub
223 whose pruning or removal has been at issue in the hearing if it finds
224 that public convenience and necessity requires such action. The burden
225 of proving that public convenience and necessity requires such action
226 shall be on the utility.

227 [(5)] (7) When an objection or request for modification has been filed
228 pursuant to subdivision [(2)] (3) of this subsection, no tree or shrub
229 subject to the objection or request for modification shall be pruned or
230 removed until a final decision has been reached pursuant to
231 subdivision [(4)] (6) of this subsection.

232 (d) [No utility shall be required to provide notice pursuant to
233 subsection] Subsection (c) of this section shall not apply if the tree
234 warden of the municipality or the Commissioner of Transportation, as
235 appropriate, authorizes, in writing, pruning or removal by the utility
236 of a hazardous tree within the utility protection zone or on or
237 overhanging any public highway or public ground. If the hazardous

238 tree is outside of the public right-of-way, the utility shall make a
239 reasonable effort to notify the property owner of the proposed pruning
240 or removal at least three days prior to performing such pruning or
241 removal. Nothing in this subsection shall be construed to require a
242 utility to prune or remove a tree.

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

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

261 (g) Each utility shall operate an electronic mail account to receive
262 objections, requests for modification, inquiries or complaints pursuant
263 to subsections (a) to (f), inclusive, of this section.

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

267 (f) Any person, firm or corporation, other than a tree warden or his
268 deputy, who desires the cutting or removal, in whole or in part, of any

269 tree or shrub or part thereof within the limits of any public road or
 270 grounds, may apply in writing to the town tree warden, the borough
 271 tree warden or the Commissioner of Transportation or other authority
 272 having jurisdiction thereof for a permit so to do. Upon receipt of such
 273 permit, but not before, [he] the applicant may proceed with such
 274 cutting or removal, provided doing so is also consistent with section
 275 16-234, as amended by this act, if applicable. Before granting or
 276 denying such permit, such authority may hold a public hearing as
 277 provided in section 23-59. [, and when] When the applicant is a public
 278 utility corporation, the party aggrieved by such decision may, within
 279 ten days, appeal therefrom to the Public Utilities Regulatory Authority,
 280 which shall have the power to review, confirm, change or set aside the
 281 decision appealed from and its decision shall be final. The burden of
 282 proving that public convenience and necessity requires the proposed
 283 cutting or removal shall be on the utility. This appeals process shall be
 284 in addition to the powers granted to [it] the Public Utilities Regulatory
 285 Authority under section 16-234, provided, if an application for such
 286 permit has been made to either a tree warden or the Commissioner of
 287 Transportation or other authority and denied by him, an application
 288 for a permit for the same relief shall not be made to any other such
 289 authority. Upon any approval of such a permit by the Commissioner
 290 of Transportation, he shall notify the tree warden for the town in
 291 which the tree is located. Upon any approval of such a permit by the
 292 Commissioner of Transportation, the permittee shall notify the tree
 293 warden for the town in which the tree is located prior to cutting any
 294 such tree."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-32h(c)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	16-234
Sec. 4	<i>from passage</i>	23-65(f)