



House of Representatives

General Assembly

File No. 191

February Session, 2018

House Bill No. 5343

House of Representatives, April 4, 2018

The Committee on Energy and Technology reported through REP. REED of the 102nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING FINES ORDERED BY THE PUBLIC UTILITIES REGULATORY AUTHORITY, CIVIL PENALTIES FOR FAILURES TO COMPLY RELATED TO EXCAVATION, DEMOLITION OR DISCHARGE OF EXPLOSIVES AND CERTAIN TIME FRAMES FOR CALCULATING LOST AND UNACCOUNTED FOR GAS.

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

1 Section 1. Subsection (a) of section 16-41 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) Each (1) public service company and its officers, agents and
5 employees, (2) electric supplier or person providing electric generation
6 services without a license in violation of section 16-245, and its officers,
7 agents and employees, (3) certified telecommunications provider or
8 person providing telecommunications services without authorization
9 pursuant to sections 16-247f to 16-247h, inclusive, and its officers,
10 agents and employees, (4) person, public agency or public utility, as
11 such terms are defined in section 16-345, subject to the requirements of

12 chapter 293, (5) person subject to the registration requirements under
13 section 16-258a, (6) cellular mobile telephone carrier, as described in
14 section 16-250b, (7) Connecticut electric efficiency partner, as defined
15 in section 16-243v, (8) company, as defined in section 16-49, and (9)
16 entity approved to submeter pursuant to section 16-19ff shall obey,
17 observe and comply with all applicable provisions of this title and each
18 applicable order made or applicable regulations adopted by the Public
19 Utilities Regulatory Authority by virtue of this title as long as the same
20 remains in force. Any such company, electric supplier, certified
21 telecommunications provider, cellular mobile telephone carrier,
22 Connecticut electric efficiency partner, entity approved to submeter,
23 person, any officer, agent or employee thereof, public agency or public
24 utility which the authority finds has failed to obey or comply with any
25 such provision of this title, order or regulation shall be fined, ordered
26 to pay restitution to customers or ordered to pay a combination of a
27 fine and restitution by order of the authority in accordance with the
28 penalty prescribed for the violated provision of this title or, if no
29 penalty is prescribed, not more than ten thousand dollars for each
30 offense, except that the penalty shall be a fine, restitution to customers
31 or a combination of a fine and restitution of not more than forty
32 thousand dollars for failure to comply with an order of the authority
33 made in accordance with the provisions of section 16-19 or 16-247k or
34 within thirty days of such order or within any specific time period for
35 compliance specified in such order. Each distinct violation of any such
36 provision of this title, order or regulation shall be a separate offense
37 and, in case of a continued violation, each day thereof shall be deemed
38 a separate offense. Each such penalty and any interest charged
39 pursuant to subsection (g) or (h) of section 16-49 shall be excluded
40 from operating expenses for purposes of rate-making.

41 Sec. 2. Section 16-356 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective from passage*):

43 Any person, public agency or public utility which the Public
44 Utilities Regulatory Authority determines, after notice and
45 opportunity for a hearing as provided in section 16-41, as amended by

46 this act, to have failed to comply with any provision of this chapter or
47 any regulation adopted under section 16-357 shall forfeit and pay to
48 the state a civil penalty of not more than forty thousand dollars,
49 provided any violation involving the failure of a public utility to mark
50 any approximate location of an underground utility facility correctly
51 or within the time frames prescribed by regulation, which violation
52 did not result in any property damage or personal injury and was not
53 the result of an act of gross negligence on the part of the public utility,
54 shall not result in a civil penalty of more than one thousand dollars.
55 Any civil penalty assessed under this section shall be paid by the
56 person, public agency or public utility to whom the notice is
57 addressed. If any such person, public agency or public utility recovers
58 any portion of the penalty from any outside source and, if the
59 authority deems appropriate, the recovered penalty shall be forfeited,
60 as directed by the authority in such notice. Notwithstanding the
61 provisions contained in subsection (d) of section 16-41, the person,
62 public agency or public utility receiving a notice of violation pursuant
63 to subsection (c) of section 16-41 shall have thirty days from the date of
64 receipt of the notice in which to deliver to the authority a written
65 application for a hearing.

66 Sec. 3. Section 16-34a of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective October 1, 2018*):

68 (a) Not later than July 1, 2015, and annually thereafter, the Public
69 Utilities Regulatory Authority shall submit a report, in accordance
70 with the provisions of section 11-4a, to the joint standing committee of
71 the General Assembly having cognizance of matters relating to energy.
72 Such report shall include (1) a description of the reasons for each gas
73 company's percentage of lost and unaccounted for gas, (2)
74 recommendations for each gas company's gas leak reduction strategy,
75 (3) a description of each gas company's current gas leak monitoring
76 system program, and (4) the number of leaks and causes of such leaks
77 throughout the entire gas distribution system in the state and any
78 other information the authority determines to be relevant.

79 (b) The authority shall initiate a docket to investigate the lost and
 80 unaccounted for gas of a gas company if the percentage of lost and
 81 unaccounted for gas of such gas company in any [calendar] fiscal year
 82 beginning July first and ending June thirtieth exceeds a total of three
 83 per cent. In such docket, a gas company shall report (1) leak detection
 84 and monitoring procedures, (2) emissions reduction strategies in
 85 addition to leak repair, and (3) any additional requirements the
 86 authority determines to be relevant. In such docket, the authority shall
 87 establish a cost mechanism to comply with long-term emissions
 88 reductions required by section 22a-200a and to incentivize a gas
 89 company to (A) reduce lost and unaccounted for gas, including the
 90 number of leaks throughout the entire gas distribution system in the
 91 state, (B) replace aging infrastructure, and (C) comply with any
 92 additional requirements the authority determines to be relevant. Such
 93 cost mechanism may be incorporated in the purchased gas adjustment
 94 clause pursuant to section 16-19b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-41(a)
Sec. 2	<i>from passage</i>	16-356
Sec. 3	<i>October 1, 2018</i>	16-34a

ET *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

Section 1 allows the Public Utilities Regulatory Authority (PURA) to order a company to pay restitution to customers, or pay a combination of fines and restitution. Currently, PURA has authority to order payment of fines. Restitution is not allowed to be recovered through rates, and as such, this provision has no fiscal impact.

Section 2 requires civil penalties to be paid directly by the person, public agency, or public utility that receives a violation notice from PURA. It is not anticipated that any state agencies or municipalities would be violators, and offending companies are not allowed to recover penalties through rates. Therefore, this provision also has no fiscal impact.

Lastly, **Section 3**, which realigns the timeframe for lost and unaccounted for (LAUF) gas from a calendar year to a fiscal year basis, also has no fiscal impact.¹

The Out Years

State Impact: None

Municipal Impact: None

¹ LUAF gas is the difference between the amount of gas that enters a gas company's distribution system and the amount actually delivered to the company's customers

OLR Bill Analysis**HB 5343*****AN ACT CONCERNING FINES ORDERED BY THE PUBLIC UTILITIES REGULATORY AUTHORITY, CIVIL PENALTIES FOR FAILURES TO COMPLY RELATED TO EXCAVATION, DEMOLITION OR DISCHARGE OF EXPLOSIVES AND CERTAIN TIME FRAMES FOR CALCULATING LOST AND UNACCOUNTED FOR GAS.*****SUMMARY**

This bill requires the Public Utilities Regulatory Authority (PURA) to impose a fine, order restitution, or both for anyone who fails to obey or comply with certain laws, orders, or regulations. Under current law, PURA must impose a fine. Under the bill, the fine, restitution or combined fine and restitution cannot exceed existing limits on the amount of the fine (generally, \$10,000 per offense, unless otherwise specified).

Existing law requires companies and individuals engaging in excavation, discharge of explosions, or demolition to comply with certain requirements (i.e., "Call Before You Dig"). By law, anyone failing to comply with these requirements must pay the state a civil penalty of up to \$40,000. Under the bill, the civil penalty must be paid by the person, public agency, or public utility that receives notice from PURA. Anyone who recovers the penalty or a portion of it from an outside source must forfeit the recovered amount as PURA directs in its notice, if PURA deems forfeiture appropriate.

Under current law, if any company's lost and unaccounted for (LUAF) gas exceeds 3% in a calendar year, PURA must open a docket to investigate. The bill aligns the year timeframe with the state fiscal year (July 1 to June 30) rather than a calendar year. In general, LUAF gas is the difference between the amount of gas that enters a gas company's distribution system and the amount actually delivered to

the company's customers or used for other purposes the company knows about.

EFFECTIVE DATE: Upon passage, except the LUAF provision is effective October 1, 2018.

FINES AND RESTITUTION

The bill's provisions allowing PURA to order a company to pay restitution to customers or pay a combination of fines and restitution apply to:

1. public service companies and their officers, agents, and employees;
2. electric suppliers or anyone providing electric generation services without a license, and their officers, agents, and employees;
3. certified telecommunications providers or anyone providing telecommunications services without authorization, and their officers, agents, and employees;
4. a person, public agency, or public utility subject to "call before you dig" requirements;
5. natural gas sellers required to register with PURA;
6. cellular mobile telephone carriers;
7. Connecticut electric efficiency partners;
8. companies required to pay their share of certain PURA expenses (e.g., utilities); and
9. entities approved to submeter.

Under the bill, the fine, restitution, or combined fine and restitution cannot exceed existing limits on the amount of the fine. The amount is in accordance with any prescribed penalty or, if no penalty is

prescribed, up to \$10,000 for each offense, except that violations of ratemaking statutes can be up to \$40,000.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 5 (03/20/2018)