



TESTIMONY OF
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Before the Energy and Technology Committee
March 4, 2021

Re: S.B. No. 882, An Act Concerning Climate Change Mitigation And Home Energy Affordability.

H.B. No. 6522, An Act Concerning An Electric Generator Reimbursement Program.

S.B. No. 937, An Act Concerning Emergency Response Planning And Video Service Wire Removal.

S.B. No. 950, An Act Concerning The Replacement Of Public Utility Poles And Revising Vegetation Management In Utility Protection Zones.

H.B. No. 6523, An Act Concerning Virtual Net Metering Credits For Manufacturers In Distressed Municipalities.

H.B. No. 6524, An Act Concerning The Solicitation Of New Fuel Cell Electricity Generation Projects.

My name is Vincent Pace. I am an Assistant General Counsel for Eversource Energy. I am offering Eversource's testimony on the above-listed bills that have been raised for public hearing.

a. Background on Eversource

Eversource transmits and delivers electricity to approximately 1.27 million customers in 149 municipalities in Connecticut; provides natural gas to approximately 246,000 customers in 74 towns in Connecticut; and our affiliate (Aquarion Water) provides service to approximately 216,000 customers in 52 towns in Connecticut.

Eversource employs approximately 9,000 employees across three states. Approximately 50 percent of our employees are members of the International Brotherhood of Electrical Workers, the Utility Workers Union of America or The United Steelworkers covered by collective bargaining agreements. In addition to the employees we directly employ, the infrastructure and other programs we administer generate hundreds of additional Connecticut-based jobs for contractors and subcontractors.

Our projects also generate substantial tax revenues for Connecticut and its municipalities, and we are typically the top property tax payer in most of the towns we serve. For the fiscal year July 2019 through June 2020 alone, Eversource paid approximately \$234 million in property taxes to Connecticut towns,¹ and for 2019 we

¹ Connecticut property taxes paid and to be paid from July 2019 through June 2020 by Eversource affiliates: CL&P \$186,511,264; Yankee Gas \$33,581,456; and Aquarion Water Co. \$14,526,528.

paid an additional approximately \$163 million in gross earnings tax to the State of Connecticut.²

b. S.B. No. 882, An Act Concerning Climate Change Mitigation And Home Energy Affordability.

S.B. 882 promotes important carbon reduction and energy efficiency goals that will continue to position Connecticut as a leader in combating climate change and reducing energy consumption. Eversource respectfully requests the following two clarifications to this Bill.

First, Section 2 authorizes DEEP to solicit demand response proposals “that do not, annually, exceed three hundred thousand megawatt hours of electricity in the aggregate or one hundred megawatts of demand reduction.” DEEP and PURA have collectively achieved outstanding results through performing their respective roles in connection with Connecticut’s existing, award-winning conservation and load management (“C&LM”) programs that are funded through Conn. Gen. Stat. § 16-245m. These existing C&LM programs are estimated to create and support approximately 36,000 jobs annually in Connecticut.³ Eversource appreciates that Section 2 of the Bill cross-references these existing C&LM programs,⁴ but it recommends adding a clarification to Section 2 to make explicit that the *funding* for this new initiative is *incremental* to existing programs funded under § 16-245m. Although we understand the intent of this Bill is to be incremental to existing programs, an explicit confirmation would be helpful to C&LM program participants. A clarification that could be added to Section 2(a) is: “Proposals from such resources selected pursuant to this section are incremental to programs funded under section 16-245m.”

Second, Sections 3 and 4 require Home Energy Labels to be used to help purchasers of residential properties and tenants of rental properties make informed decisions about prospective premises. Sections 3 and 4 state that utility companies “may” recover their “prudently incurred” costs to provide the energy consumption data mandated by these new programs.⁵ Existing legislation implementing other state energy programs confirm that utilities “shall” recover prudently incurred costs.⁶ Moreover, judicial precedent confirms that “[t]he basic principle of rate-making is that a regulated public utility is entitled to recover from ratepayers all prudently

² Gross earnings taxes paid in 2019 by Eversource affiliates: CL&P \$141,188,143; Yankee Gas \$21,939,623.

³ See February 17, 2021 Eversource Comments on 2020 Integrated Resources Plan at Page 8 and fn. 4.

⁴ See S.B. 882, Section 2(b)(stating that “If an electric distribution company, as defined in section 16-1 of the general statutes, submits a proposal, such electric distribution company shall demonstrate that the electric demand reductions of the proposal are in addition to the projected electric demand reductions of the conservation and load management programs authorized pursuant to section 16-245m of the general statutes.”)

⁵ See S.B. 882, Lines 141-145 and Lines 205-210.

⁶ See, e.g., Conn. Gen. Stat. § 16-244z(e) (“The costs incurred by an electric distribution company pursuant to this section *shall* be recovered on a timely basis through a nonbypassable fully reconciling component of electric rates for all customers of the electric distribution company.”); Conn. Gen. Stat. § 16-258e(b) (“The net costs of any such agreement, including costs incurred by the electric distribution company under the agreement and reasonable costs incurred by the electric distribution company in connection with the agreement, *shall* be recovered on a timely basis through a reconciling component of electric rates as determined by the authority that is nonbypassable when switching electric suppliers.”); Conn. Gen. Stat. § 16-245gg(g) (“The electric distribution companies’ costs associated with complying with this section *shall* be recoverable on a timely basis through a fully reconciling, nonbypassable rate component.”); Conn. Gen. Stat. § 16-244s(e) (“The electric distribution company *shall* be entitled to recover its reasonable costs and fees prudently incurred of complying with its approved procurement plan through a reconciling component of electric rates as determined by the authority.”); Conn. Gen. Stat. § 16-244v(a) (“ . . . the distribution company shall net the cost of payments made to projects under the long-term contracts against the proceeds of the sale of energy or renewable energy credits and the difference *shall* be credited or charged to distribution customers through a reconciling component of electric rates as determined by the authority that is nonbypassable when switching electric suppliers.”)

incurred operating and capital costs.”⁷ Eversource agrees it can only recover costs that are prudently incurred. But the Bill proposes to create a new standard that says – even after a utility demonstrates its costs were prudently incurred – it “may” (as opposed to “shall”) recover its costs to implement a state-mandated program.⁸ This new standard does not explain what additional conditions (beyond demonstrating prudence) a utility must satisfy to obtain cost recovery. Eversource therefore requests clarification that – once a utility demonstrates that any new, incremental costs were prudently incurred – then such costs “*shall*” be recoverable.

c. S.B. No. 937, An Act Concerning Emergency Response Planning And Video Service Wire Removal.

Section 1 of this Bill has three goals: (1) it orders PURA to initiate a docket to investigate and develop a revised process for EDCs to deploy crews “make safe” crews to municipalities to address downed electric lines on roads; (2) it orders EDCs to develop revised Emergency Response Plans (“ERPs”); and (3) it orders EDCs to revise their municipal liaison programs that coordinate the flow of information between EDCs and municipalities during the restoration of power outages.

Although these goals are very important and Eversource supports and is actively striving towards continued improvement in each of these areas, this Bill is not necessary because PURA is already addressing these three goals. First, PURA is presently evaluating, among other things, the EDCs’ deployment of crews to municipalities in its pending, comprehensive investigation of the EDCs response to Storm Isaias in Docket No. 20-08-03.⁹ Second, Conn. Gen. Stat. § 16-32e(b) already directs each EDC to file their ERP with PURA,¹⁰ and it authorizes PURA, in consultation with other State agencies and the E&T Committee, to “revise such plans to the extent necessary to provide properly for the public convenience, necessity and welfare”.¹¹ Third, Conn. Gen. Stat. § 16-32e(b)(1) requires ERPs to “include measures for . . . communication and coordination with . . . municipalities . . .”, and therefore, revisions to municipal liaison programs can be addressed within an evaluation of proposed revisions to ERPs.

Additionally, when Eversource responds following a storm, public safety and prompt restoration, especially to critical customers such as hospitals, are important public priorities that need to be appropriately balanced. We have concerns that the Bill contains terminology that is inconsistent with the State’s existing emergency policy that could substantially delay restoration for customers.¹²

⁷ Office of Consumer Counsel v. DPUC, No. CV 98 0492711 S, 1999 WL 73791, at *2 (Conn. Super. Ct. Feb. 9, 1999), aff’d sub nom. Office of Consumer Counsel v. Dep’t of Pub. Util. Control, 252 Conn. 115, 742 A.2d 1257 (2000).

⁸ The “word ‘may’ imports permissive conduct and the conferral of discretion”. State v. Bletsch, 281 Conn. 5, 17, 912 A.2d 992, 1001 (2007)(citations omitted.)

⁹ See Docket No. 20-08-03, Investigation into Electric Distribution Companies’ Preparation and Response to Tropical Storm Isaias.

¹⁰ Conn. Gen. Stat. § 16-32e(b).

¹¹ Conn. Gen. Stat. § 16-32e(b) (“Not later than September 15, 2012, and every two years thereafter, the Public Utilities Regulatory Authority may conduct public hearings on such plans and, in consultation with the Department of Emergency Services and Public Protection, the Department of Public Health and the joint standing committee of the General Assembly having cognizance of matters relating to public utilities, revise such plans to the extent necessary to provide properly for the public convenience, necessity and welfare.”)

¹² For example, the Bill broadly defines “make-safe action” as “the clearing of downed electric wires that endanger the life, safety or property of any individual”; (S.B.937 at §1(a)(5)); whereas the State’s existing make safe protocol more narrowly defines a

But if this Committee determines this Bill is necessary, then Eversource looks forward to a constructive dialogue with members of this Committee and other stakeholders on potential clarifying refinements. There are many important priorities that have to be addressed in a major storm event. PURA has the expertise and authority to determine what the best balance is between customer restoration and municipal priorities.

d. **S.B. 950, An Act Concerning The Replacement Of Public Utility Poles And Revising Vegetation Management In Utility Protection Zones.**

i. Sections 2 & 3 of S.B. 950

Eversource **supports** Sections 2 and 3 of the Bill, which support the trimming of trees near high voltage “three-phase” backbone electric circuits. Eversource fully understands the important aesthetic, screening and other values that landowners attribute to their trees. But those landowner interests should be balanced against the compelling interests of ensuring safe and reliable electric service to Connecticut customers, especially critical facilities such as fire, police, hospitals, waste water treatment and other state and municipal critical facilities.

Trees are the leading cause of power outages. In a recent major storm, for example, approximately 93% of the damage spots on the Company’s electric system were caused by storm damaged trees.¹³ The Bill balances the above-mentioned interests by providing EDCs with enhanced trimming rights only for three-phase backbone circuits that emanate from electric substations which serve the largest blocks of customers. A single storm-damaged tree that impacts one three-phase backbone circuit could cause power outages to thousands of customers. For example, all of the benefits of trimming along an important 10 mile three-phase backbone circuit that serves thousands of customers are compromised if a single landowner refuses to consent to trimming and that refusal is not overruled through the various stages of review currently available under Conn. Gen. Stat. § 16-234.

Eversource understands that PURA will need details on the specific three-phase backbone circuits the Company proposes to trim annually before that work is performed. Under existing law, Eversource already files each January 1st its annual vegetation management plan with PURA under Conn. Gen. Stat. § 16-32g.¹⁴ Section 16-32g requires Eversource to file with PURA a plan that explains its “program for the trimming of tree branches and limbs located in close proximity to overhead electric wires where such branches and limbs may cause damage to such electric wires.”¹⁵ This annual plan filed with PURA can be supplemented to identify those specific three-phase backbone circuits that Eversource proposes to trim for the upcoming year to ensure PURA has advance notice of the Company’s annual plans. Further, in addition to identifying the specific three-phase backbone circuits, Eversource also proposes to identify the total number of customers as

“Make Safe Blocked Road” very explicitly as a road that is totally impassable, with no reasonable way around for access, and involving downed electric facilities. (See State of CT ESF12 Annex, Make Safe Protocol for Clearing Blocked Roads at 42; Feb. 19, 2021 Eversource Reply Brief in PURA Docket No. 20-08-03 at 37.)

¹³ See PURA Docket No. 20-08-03, at data response Q-LF-25 (Out of 21,669 damage locations, 20,171 caused by trees.)

¹⁴ See PURA Docket No. 20-12-44, PURA Review of Electric Companies’ and Electric Distribution Companies’ Plans for Maintenance of Transmission and Distribution Overhead and Underground Lines, Jan. 1, 2021 Eversource Electric Utility Line Maintenance Plan filed under Conn. Gen. Stat. 16-32g, at Appendix 3 which contains “CL&P Annual Vegetation Management Plan”: Section 1 CL&P Vegetation Management Annual Plan; Section 2 Specification for Tree Work & Brush Control; Section 3 CL&P Line Clearance Organization; and Section 4 CL&P Property owner notification and consent procedures.

¹⁵ Conn. Gen. Stat. § 16-32g.

well as specific critical facilities that would be otherwise impacted by an outage associated with each backbone circuit included within the annual plan.

Eversource also proposes to provide advance notice to the affected landowners before work takes place.

Finally, in addition to providing PURA with an annual list of the circuits that Eversource will trim, the Company proposes to clarify the definition of "three phase main" in the Bill to mean "a circuit which originates directly from a substation and is protected by a circuit breaker or a recloser-type device". This clarification removes the term "segment" that appears in the current definition of this term in order to provide a more clear and precise definition.

ii. Section 1 of S.B. 950

Regarding Section 1 of S.B. 950, it proposes a fixed, mandatory 90-day deadline by which the wires, cables and equipment owned by a subset of pole attachers, but not all pole attachers, must shift their attachments from an old pole to a new pole. Section 1 imposes this new deadline on "public service companies" which, in this context, applies to electric, landline telephone and cable television companies with pole attachments.¹⁶ But the proposed deadline does not apply to the pole attachments of municipalities and certain other communications-related attachers¹⁷ because they are not "public service companies".¹⁸ Additionally, because shifting equipment from one pole to another is performed in sequence by the affected pole attachers, if one existing pole attacher takes 89 days to shift its equipment from an old pole to a new pole, then the remaining pole attachers will not be able to timely complete their respective shift work within the proposal's overall 90-day time period. Eversource therefore looks forward to constructive dialogue with this Committee and other stakeholders to address this issue.

Moreover, it is important to recognize that PURA already has jurisdiction over public service companies pursuant to Conn. Gen. Stat. § 16-11, as well as entities that attach equipment to poles in the public right of way under other general statutes. More importantly, PURA has already exercised its authority to develop timelines for shifting equipment from an old pole to a new pole in general,¹⁹ as well as in order to process a request for a new entity to attach equipment to utility poles.²⁰ PURA is best equipped to determine what is

¹⁶ See Conn. Gen. Stat. § 16-1(a)(3) defines "Public service company" as "includes electric distribution, gas, telephone, pipeline, sewage, water and community antenna television companies and holders of a certificate of cable franchise authority, owning, leasing, maintaining, operating, managing or controlling plants or parts of plants or equipment, **but shall not include towns, cities, boroughs, any municipal corporation or department thereof**, whether separately incorporated or not, a private power producer, as defined in section 16-243b, or an exempt wholesale generator, as defined in 15 USC 79z-5a;" (Emphasis added.)

¹⁷ Certain communications providers such as commercial mobile radio service (CMRS) providers must satisfy certain conditions before they can attach communications equipment to utility poles in the public right of way, but they are not "public service companies" as defined in Conn. Gen. Stat. 16-1(a)(3). See, e.g., DPUC Investigation into the Deployment of Distributed Antenna Sys. (Das) in the Pub. Rights of Way in Connecticut - CPCN Requirement, No. 08-06-19RE01, 2011 WL 13067943, at *2 (Apr. 27, 2011) (stating "All CMRS providers shall seek construction plan approval from the Department, 90 days prior to commencement of any facilities construction in the public rights of way.")

¹⁸ Id.

¹⁹ See, e.g., Docket No. 03-03-07RE01, DPUC Review of Public Utility Structures and Poles Within the Municipal Rights of Way – Compliance Review.

²⁰ See, e.g., PURA Docket No. 07-02-13, DPUC Review of the State's Public Service Company Utility Pole Make-Ready Procedures – Phase I; Docket No. 11-03-07, PURA Investigation into the Appointment of a Third Party Statewide Utility Telephone Pole Administrator for the State of Connecticut; Docket No. 11-03-07RE01, PURA Investigation into the Appointment of a Third

the appropriate time frame to shift equipment from old poles to new poles based on the evidence submitted by all stakeholders in a docketed proceeding.

e. H.B. No. 6522, An Act Concerning An Electric Generator Reimbursement Program.

Eversource understands the hardships power outages have on “medically coded” customers who rely on electricity for their critically important medical equipment. Although H.B. 6522 directs PURA to study a potential program to reimburse medically coded customers for the cost of a personal home generator, the Bill’s text appears to pre-ordain the outcome of the study before PURA actually completes the study, and it also ties PURA’s hands by stating that “[s]uch program *shall*” establish a procedure for medically coded customers to obtain reimbursement from a utility company for the cost of a home generator and a utility company cannot obtain cost recovery of the costs of this proposed initiative.²¹ The above-quoted text should be clarified to empower PURA to evaluate, based on record evidence, whether or not such procedures “*may*” be implemented instead of mandating that PURA “*shall*” establish such procedures. Also, well-established constitutional principles prohibit governmental authorities from blocking recovery of costs directly incurred to comply with new governmental mandates, such as those proposed by this Bill.

f. H.B. No. 6523, An Act Concerning Virtual Net Metering Credits For Manufacturers In Distressed Municipalities.

This Bill proposes to expand the current virtual net metering program (“VNM”) to allocate \$10 million annually to eligible manufacturers located in a distressed municipality. The Bill appropriately delegates to PURA the authority to develop the details of this program, stating that PURA shall “develop the administrative processes and program specifications” for this proposed initiative. Line 4 of the Bill states that PURA would convene a proceeding “[o]n or before October 1, 2013”, which would need to be updated to enable PURA to implement additional processes and procedures on or before October 1, 2021 or some other future date that is acceptable to PURA arising out of the Bill’s proposed expansion of the VNM program.

g. H.B. No. 6524, An Act Concerning The Solicitation Of New Fuel Cell Electricity Generation Projects.

The Bill amends Conn. Gen. Stat. § 16-244y to facilitate the implementation of a solicitation process for new fuel cell generation projects. Eversource understands the importance of fuel cell projects to our State. The Company respectfully proposes a limited clarifying change to confirm that – if an EDC demonstrates program costs were prudently incurred – then an EDC “shall” (instead of “may”) obtain cost recovery.²² This proposed change of “shall” to “may” appears in Lines 77-78 of H.B. 6524.

Party Statewide Utility Telephone Pole Administrator for the State of Connecticut – Overlash Requirements; Docket No. 19-01-52, PURA Investigation of Developments in the Third Party Pole Attachment Process.

²¹ H.B. 6522, lines 7-10, state “Such program *shall* (1) establish a procedure for customers of such company to offer proof of such purchase and such medical necessity for such generator, and (2) prevent the recovery of costs incurred by an electric distribution company pursuant to this section.”

²² This change is consistent with the text of other energy initiatives authorized in legislation. See, e.g., Conn. Gen. Stat. § 16-244z(e) (“The costs incurred by an electric distribution company pursuant to this section *shall* be recovered on a timely basis through a nonbypassable fully reconciling component of electric rates for all customers of the electric distribution company.”); Conn. Gen. Stat. § 16-245gg(g) (“The electric distribution companies’ costs associated with complying with this section *shall* be recoverable on a timely basis through a fully reconciling, nonbypassable rate component.”)