OLR Bill Analysis

sSB 7

AN ACT STRENGTHENING PROTECTIONS FOR CONNECTICUT'S CONSUMERS OF ENERGY.

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SUMMARY

This bill make various changes in the energy statutes that, among

other things: (1) prohibit utility companies from recovering certain costs through their rates, (2) limit the use of settlement agreements in utility company rate cases, (3) requires certain broad economic factors to be considered when the rate of return for certain utility companies is being determined, (4) requires utility companies to fund the operations of nonprofit agencies engaged in energy assistance programs, and (5) creates a process for a stakeholder group in a Public Utilities Regulatory Authority (PURA) proceeding to have certain expenses paid by the company that is subject to the proceeding.

§ 1 — RATE DECOUPLING

Gives PURA greater discretion in how it orders EDCs and gas companies to decouple their distribution revenue from their sales volume

The bill gives PURA greater discretion in ordering rate decoupling in any electric distribution company (EDC, i.e., Eversource or United Illuminating) or gas company rate case that either has a final decision pending on October 1, 2023, or is started on or after that date. Current law requires PURA to order the companies to decouple their distribution revenues from their sales volumes and specifies how it must do so. For EDCs, it requires PURA to use a decoupling mechanism (e.g., a separate rate component on bills) that adjusts actual distribution revenues to allowed distribution revenues. And for gas companies, it requires a mechanism that does not remove the incentive to support natural gas expansion under the 2013 Comprehensive Energy Strategy.

The bill instead allows PURA to order the decoupling and gives it the discretion to determine the decoupling mechanism and method used in decoupling orders, as guided by the state's Comprehensive Energy Strategy, Integrated Resources Plan, Conservation and Load Management Plan, and the Department of Energy and Environmental Protection's (DEEP) policies.

EFFECTIVE DATE: October 1, 2023

§§ 2 & 3 — PROHIBITED COST RECOVERY IN RATES

Prohibits PURA-regulated utility companies from recovering through their rates their costs for contested PURA proceedings, membership dues for business or trade associations, lobbying, and advertising

Contested PURA Proceedings (§ 2)

Current law prohibits EDCs from recovering their costs for attending or participating in PURA's rate-making hearings. The bill broadens this prohibition to cover any PURA-regulated utility company, any contested proceeding before PURA, and the costs of preparing for or appealing them. Under the bill, these costs include attorneys' fees, expert witness and consultant fees, and related costs PURA identifies.

EFFECTIVE DATE: Upon passage

Membership Dues, Lobbying Costs, and Ads (§ 3)

The bill prohibits any PURA-regulated utility company from recovering through their rates costs associated with the following:

1. membership, dues, sponsorships, or contributions to a business or industry trade association, group, or tax-exempt related entity;

2. lobbying or legislative action, as defined in the state's code of ethics for lobbyists; and

3. advertising, marketing, or other PURA-identified related costs, unless PURA specifically approves or orders them (existing law, unchanged by the bill, generally prohibits EDCs and gas companies from rate recovery for the cost of their political, institutional, or promotional advertising (CGS § 16-19d).

EFFECTIVE DATE: Upon passage

§ 4 — SETTLEMENTS

Sets conditions for PURA to approve a settlement in a rate amendment proceeding, limits the term of any provision in the settlement to three years, and generally prohibits a settlement from satisfying the law's requirement for EDCs and gas companies to have a rate case at least once every four years

Current law requires PURA to encourage using proposed settlements to resolve contested cases and proceedings whenever it is appropriate. The bill requires PURA to allow, instead of encourage, these settlements and sets certain conditions that must be met before PURA approves a settlement in a proceeding to amend rates. These conditions require:

1. PURA to determine that the resulting rate and settlement terms conform to certain statutory ratemaking principles,

2. the parties proposing the settlement to give the proposed settlement to all parties and intervenors at least three days before filing it with PURA, and

3. the filed proposed settlement to be accompanied by testimony from at least one witness representing each party to the settlement.

The bill also limits the term of any provision in the settlement to three years after PURA approves the settlement. Under the bill, any rate amendment proceeding that is resolved by a settlement does not constitute a general rate hearing for the periodic review required by law for EDCs and gas companies with at least 75,000 customers (i.e., it does not exempt these companies from the need to have a rate case at least once every four years).

EFFECTIVE DATE: Upon passage

§ 5 — ENERGY ADJUSTMENT CLAUSE

Allows PURA to establish an efficiency factor in the energy adjustment clause that may limit the extent to which EDCs recover the cost of the gross earnings tax from ratepayers

The law allows PURA to approve an energy adjustment clause through which the EDCs can recover certain costs that were not authorized in their base rates (e.g., costs of energy transactions with non-utility generators, conservation and load management costs). The bill removes from these recoverable costs the gross earnings tax on revenues from energy sources subject to the energy adjustment clause. It instead allows PURA to establish an efficiency factor in the clause for each EDC that may provide for less than full recovery of the gross earnings tax on the revenues from the purchased energy.

EFFECTIVE DATE: Upon passage

§ 6 — EXECUTIVE COMPENSATION

Limits total compensation for executives and officers in the parent company of an EDC, gas company, or PURA-regulated water company; requires the companies to give a six-

month bill credit equal to the amount of executive compensation recovered in rates if the standard service rate or adjustment clause increases by at least 10%

The bill prohibits the total compensation for any executives or officers of the parent company of an EDC, gas company, or PURA-regulated water company from exceeding the executive's or officer's base compensation by more than five percent. (It is unclear whether the state or PURA has authority to do this, particularly if the parent company is located outside of Connecticut.)

It also requires these companies to give a monthly billing credit to their customers whenever the standard service rate, energy adjustment clause, purchased gas adjustment clause, or water company rate adjustment mechanism increases by more than 10% between billing periods. For at least six months, the company incorporating the rate increase must give a monthly credit equal to the total compensation of its executives and officers that is recovered through rates in the monthly bill. (It is unclear whether the companies could recover the costs of these credits through their rates.)

EFFECTIVE DATE: Upon passage

§ 7 — ELECTRIC SYSTEM IMPROVEMENTS CHARGE SUNSET

Sunsets the use of Eversource's Electric System Improvements Charge in 2024

Starting January 1, 2024, the bill makes the costs of new electric plant (i.e., infrastructure) additions ineligible for recovery through the on-bill reconciling mechanism first authorized in 2018 (i.e., Eversource's Electric System Improvements Charge authorized in its 2018 rate case settlement).

EFFECTIVE DATE: Upon passage

§ 8 — FACTORS IN REASONABLE RATE OF RETURN

Requires PURA to consider certain broad economic factors when determining an EDC's, gas company's, or PURA-regulated water company's reasonable rate of return

The bill requires PURA, in each EDC, gas company, or PURA-regulated water company rate amendment proceeding, to consider the following factors when determining a reasonable rate of return (generally, a factor in calculating the profit the company may make on

providing services):

1. macroeconomic conditions when the proceeding is before PURA;
2. the company's compliance with state law and regulations, and PURA's decision and policies;
3. the energy cost burden on residential ratepayers, measured as a percentage of household income, under the current and proposed rates;
4. trends in the company's accrual of bad debt; and
5. any other issue PURA finds relevant.

Existing law, unchanged by the bill, generally requires PURA to set rates that are sufficient, but no more than that, to allow the companies to cover their operating and capital costs, and to attract needed capital and maintain their financial integrity, while giving appropriate protection to the relevant public interests (CGS § 16-19e).

The bill also removes a provision that requires PURA to analyze how a company providing reduced or free service to its employees affects its ratepayers.

EFFECTIVE DATE: Upon passage

§ 9 — PROPOSED RATE AMENDMENTS

Changes the information that must be included in customer notices about proposed rate amendments; standardizes the deadline for PURA to decide on a proposed rate amendment; prohibits companies from applying to reopen a rate proceeding under the rate amendment law; lowers the threshold for PURA to hold a hearing on the need for an interim rate decrease; and generally prohibits a company from applying to amend its rates if another company with the same parent has a rate amendment pending before PURA

Notices

The law requires PURA-regulated utility companies to mail a notification about a proposed rate amendment to each customer who would be affected by it. Under current law, this notice must state whether the proposal, in the company's best estimate, would increase any rate or charge by at least 25%. The bill lowers the applicable amount

of this increase to five percent and makes the cost of providing the notices non-recoverable through rates. It also removes a provision that currently limits the notices to one form for each customer class.

Under the bill, if a company fails to provide adequate notice, then PURA must consider the effective filing date of the company's proposed rate amendment to be the date that it provides adequate notice to customers, as PURA determines. Until that effective filing date, no days count toward PURA's deadline to decide on the proposal (see below).

PURA Deadline to Decide on Proposed Rate Changes

The bill standardizes the deadline for PURA to decide on a proposed rate amendment as 350 days after the effective filing date for any type of PURA-regulated utility company. Under current law, PURA must decide within 350 days after an EDC or gas company files a proposal, and within 200 days after any other type of company files one. As under current law, if PURA does not decide by the deadline, the proposed rate change may become effective under certain conditions.

Reopening Rate Proceedings

Under current law, a PURA-regulated utility company applying to reopen a rate proceeding under the rate amendment law must notify customers if the proposal would increase the company's revenue or any rate or charges by at least five percent. The bill removes this provision and instead prohibits the companies from applying to reopen a rate proceeding under the rate amendment law.

Interim Rate Decrease Hearings

The law generally requires PURA to hold a hearing on the need for an interim rate decrease under certain conditions. Under current law, one condition that triggers this requirement is when a PURA-regulated company's return on equity exceeds its PURA-authorized return by at least one percentage point over a rolling 12-month period. The bill lowers this threshold to one-half of one percentage point.

Current law also triggers this hearing requirement if PURA finds that a company may be collecting rates that are more than just, reasonable,

and adequate. The bill requires the hearing if PURA provides appropriate notice (instead of finding) that the rates or authorized rate of return are more than just, reasonable, and adequate. As under current law, the company must show that its return on equity, rate of return, or rates are directly beneficial to its customers.

Prohibition on Simultaneous Rate Amendments

The bill generally prohibits a PURA-regulated utility company from applying to amend its rates under the rate amendment law or in a general rate case if another company with the same parent company has a rate amendment application pending before PURA. Under the bill, however, PURA may waive this provision upon a showing of good cause or at its own discretion.

EFFECTIVE DATE: Upon passage

§ 10 — FOUR-YEAR GENERAL RATE CASES

Brings certain water companies under the requirement for a general rate case at least once every four years and allows PURA to open these rate cases more frequently

For each EDC and gas company that has at least 75,000 customers, current law generally requires PURA to investigate and hold a hearing (i.e., "rate case") to review whether the company's rates and service meet certain criteria within four years after the company's previous general rate case. The bill (1) expands this requirement to also cover PURA-regulated water companies that have at least 75,000 customers and (2) specifies that PURA has discretion to initiate these rate cases at less than four-year intervals.

EFFECTIVE DATE: Upon passage

§§ 11-12 — MANAGEMENT AUDITS

Requires certain PURA-regulated water companies to have a complete management audit at least once every six years; makes certain costs related to the audits non-recoverable in rates

Current law requires EDCs and gas companies that have at least 75,000 customers to have a complete management audit of their operations performed every six years. The bill expands this requirement to include PURA-regulated water companies that have at least 75,000

customers.

It also prohibits PURA from recognizing as a proper business expense the audited companies' costs and expenses for complying with an audit-related PURA order. Current law requires PURA to recognize these costs as proper business expense, allowing them to be recovered through the company's rates.

EFFECTIVE DATE: Upon passage

§ 13 — RETURN OF EDC OVEREARNINGS

Gives PURA greater discretion to determine how certain EDC overearnings are returned to customers

Under current law, PURA must require that any EDC funds that exceed the company's authorized return on equity be refunded to customers within one year after receipt, if they are meant to offset future rate increases instead of a present rate decrease. The bill removes the one-year deadline and instead requires the refund to be at a time that PURA determines, but no later than the end of the company's next rate case.

EFFECTIVE DATE: Upon passage

§ 14 — PURA STAYS OF ENFORCEMENT

Requires entities appealing a PURA civil penalty to provide the penalty amount in escrow or another surety before PURA stays enforcement; requires parties to meet certain standards to get other stays of enforcement from PURA

Under the bill, an entity seeking a stay of enforcement while it is appealing a PURA order, authorization, or decision that imposed a civil penalty must provide an escrow deposit, bond, or other surety that equals the penalty before PURA stays the enforcement.

To obtain a stay of enforcement of any other PURA order, authorization, or decision, the bill requires the appealing entity to bear the burden of showing that (1) there is a strong likelihood that the appeal will succeed, (2) the appealing party will suffer substantial and irreparable harm without a stay, and (3) the stay will not harm the public interest.

EFFECTIVE DATE: Upon passage

§ 15 — ACCIDENT REPORTING

Sets a hard deadline for reporting certain accidents to PURA; expands the information that must be included in certain monthly reports on minor accidents; and increases the maximum fines for failing to comply with the accident reporting requirements

Current law requires PURA-regulated utilities and electric suppliers, and entities involved in the transportation of gas, to notify PURA about certain accidents that involve personal injuries or public safety as soon as reasonably possible, unless the accident is minor. The bill further requires this notice to occur within 12 hours after the accident and specifies that the notification must occur by contacting the PURA chairperson or her designee.

For minor accidents, the law requires the same entities to submit a monthly report to PURA. The bill requires this report to (1) include information on the primary cause of all planned and unplanned electrical outages affecting at least 50 customers in the preceding month and (2) indicate which of them were due to a power surge. (It is unclear how companies other than EDCs could comply.)

Penalties

The bill increases the maximum fine for failing to comply with the above accident reporting requirements from $500 to $1,000 per offense. It specifies that a violation constitutes a continued violation (with each day deemed a separate offense) from the date the entity was supposed to notify PURA until the date that PURA receives the written notification. If PURA orders restitution for a customer's equipment or property damaged in a major or minor accident, then (1) the restitution must equal the equipment or property's replacement value and (2) the fines imposed do not limit or reduce the restitution. The bill prohibits EDCs from recovering these costs through their rates.

EFFECTIVE DATE: Upon passage

§ 16 — MONTHLY POWER OUTAGE REPORTING

Requires EDC power outage reports to be submitted monthly, rather than periodically, and specifies additional information that must be in them

Current law requires EDCs to indicate which power outages resulted from power surges in their periodic reports to PURA on power outages. The bill (1) requires these reports to be provided monthly, under the minor accident reporting requirement (see § 15 above); and (2) specifies that they must also include information on the primary cause of all planned and unplanned outages that affected at least 50 customers in the preceding month.

EFFECTIVE DATE: Upon passage

§§ 17 & 18 — NONPROFIT ENERGY ASSISTANCE PROGRAM FUNDING

Requires the companies that fund PURA's and certain other state agencies' administrative expenses to also fund the operations of any nonprofit agency engaged in energy assistance programs; prohibits the companies from recovering these costs through their rates

Under current law, the administrative costs of PURA, the Office of Consumer Counsel (OCC), DEEP's Bureau of Energy and Technology, and certain Office of Policy and Management expenses related to broadband expansion are funded through an assessment on PURA-regulated utilities, telephone companies, certified telecommunications providers, retail electric suppliers, and certified competitive video service providers with certain gross revenues.

The bill broadens the assessment so that the covered companies must also pay for the amount appropriated for the operations of any nonprofit agency engaged in energy assistance programs. It correspondingly requires this amount to be included in the (1) statement that PURA must annually give to companies subject to the assessment and (2) total appropriated revenue figure that is used to calculate each company's assessment and adjust for any differences between estimated quarterly payments of the assessment.

The bill also prohibits PURA from recognizing these assessments as a company's normal operating costs and prohibits the assessments from being recovered through rates. (It is unclear how this prohibition would apply to assessed companies that do not have PURA-regulated rates.)

EFFECTIVE DATE: July 1, 2023

§ 19 — STAKEHOLDER GROUP COMPENSATION

Creates a process for a stakeholder group in a PURA proceeding to have certain expenses paid by the company that is subject to the proceeding

The bill creates a process for a stakeholder group that wants to be designated as an intervenor or a participant in a PURA proceeding to apply for a compensation award. It limits this compensation to $200,000 per group and $600,000 for all groups in a proceeding.

Under the bill, "compensation" is a payment by a PURA-regulated utility company that is a party in the proceeding for all or part of the group's reasonable attorney's fees, expert witness fees, and other reasonable costs for preparing and participating in the proceeding. "Other reasonable costs" are a stakeholder group's reasonable out-of-pocket expenses directly related to its preparation for, or participation in, the proceeding that resulted in a substantial contribution (see below).

Applicable proceedings are any contested case, investigation, rulemaking or other formal proceeding before PURA, or an alternative dispute resolution ordered by PURA.

Stakeholder Groups

Under the bill, a "stakeholder group" is a (1) group of persons designated as an intervenor or participant that jointly applies for a compensation award and represents the interests of more than one (a) residential utility customer living in an environmental justice community (see *Background*) or (b) small business customer or (2) nonprofit organization in the state authorized to represent (a) residential utility customers living in an environmental justice community or (b) small business customers. A "small business customer" is a commercial or industrial electric customer with less than a 200 kilowatt peak load.

A stakeholder group does not include any nonprofit or other organization whose principal interests are the welfare of (1) a PURA-regulated utility or its investors or employees, or (2) any businesses or industries that receive utility service primarily to use in connection with manufacturing selling, or distributing goods or services for profit.

Application Process

The bill requires a stakeholder group, either before or when it files its application, to serve a notice of intent to apply for an award of compensation on every party, intervenor, and participant to the proceeding. PURA must determine appropriate procedures for accepting and responding to the applications.

The bill allows PURA to require applicants to attend trainings sponsored or recommended by PURA as a condition for receiving an award. The trainings must be designed to support (1) public participation and understanding of PURA decisions and rulings and (2) general education and awareness about public service company regulation and operations. They must also include public resources that explain PURA's and OCC's role and function.

In preparing the application process and related trainings, the bill allows PURA to (1) retain consultants (a) to provide training in areas where staff expertise does not currently exist or (b) when needed to supplement existing staff expertise and (2) incur other reasonable costs, as long as they total less than $1 million per year.

Applications. The bill requires applications to include the following:

1. a statement of the nature and extent, and the factual and legal basis, of the stakeholder's planned participation, to the extent it is possible to describe it with reasonable specificity at the time;

2. a detailed description of anticipated attorney and expert witness fees, and other preparation and participation costs; and

3. any other information PURA requires.

If participation will impose a significant financial hardship on the group and it seeks advance payment of compensation to start, continue, or complete its participation in the proceeding, then it must also include evidence of the significant financial hardship in its application. Under the bill, "significant financial hardship" is when a stakeholder group cannot afford to pay the costs of effectively participating in the

proceeding, including attorney and expert witness fees and other reasonable costs, without undue hardship.

Compensation Decisions

The bill requires PURA, within 30 days after receiving an application, to decide if the stakeholder group's participation is a substantial contribution. A "substantial contribution" is one that, in the PURA chairperson's judgement, substantially helps PURA make its decision, or part of it, because PURA may adopt at least one factual or legal contention, or a policy or procedural recommendation presented by the group. If PURA finds that the group's participation is a substantial contribution, then it must describe it and determine if the group faces a significant financial hardship.

Under the bill, if PURA finds a significant financial hardship, then it may direct the utility companies subject to the proceeding to pay all or part of the expected compensation, as determined by PURA, to the stakeholder group before the proceeding ends. The calculation of the compensation must consider the compensation paid to attorneys, expert witnesses, and others of comparable training and experience who offer similar services as those relevant to the groups' application for compensation. If the group stops participating in the proceeding without PURA's consent, PURA may recover all or part of any payments made to the group and refund them to the companies.

Each stakeholder group must return any unused compensation to PURA, which PURA must refund to the companies that provided it. PURA must also require each stakeholder group to maintain an itemized record of all expenses incurred due to the proceeding. PURA may use this record to verify the group's financial hardship claim and whether any unused funds remain when the proceeding ends. If PURA determines that at least two stakeholder groups have substantially similar interests, it may require them to jointly apply in order to receive compensation.

The bill otherwise requires any compensation to be paid at the proceeding's end, in a manner determined by PURA. The compensation

must be paid by all relevant companies in proportion to their relative annual load, customers, or revenue, as determined by PURA.

Under the bill, PURA cannot award any compensation to a stakeholder group that delays or obstructs, or attempts to do so, the orderly and timely fulfillment of PURA's duties.

Background — Environmental Justice Community

By law, an "environmental justice community" is (a) any U.S. census block group, as determined by the most recent census, for which at least 30% of the population consists of low-income people who are not institutionalized and have an income below 200% of the federal poverty level or (b) a distressed municipality (CGS § 22a-20a).

EFFECTIVE DATE: Upon passage

§ 20 — STANDARD SERVICE PROCUREMENT STUDY

Requires PURA to study the process for procuring power generation for standard service and supplier of last resort service

The bill requires PURA to study the procurement processes, policies, procedures, and timelines associated with procuring standard service and supplier of last resort service (i.e., the power generation services for those who do not receive service from a retail electric supplier). PURA must submit a report on its findings and recommendations to the Energy and Technology Committee (the bill does not specify a deadline for this submission).

EFFECTIVE DATE: Upon passage

§§ 21-24 — EDC CREDITS FOR OUTAGES AND COMPENSATION FOR LOST FOOD AND MEDICINE

Clarifies how PURA must determine when to require EDCs to give certain account credits and compensation to customers after an outage

The law generally requires an EDC to:

1. give its residential customers a $25 account credit for each day that a distribution system service outage occurs for the customers for more than 96 consecutive hours after an emergency and

2. compensate each of its residential customers with $250, in total, for any food and medication that expires or spoils due to a service outage that lasts for more than 96 consecutive hours after an emergency.

The bill further specifies that PURA has sole discretion to determine when an emergency ends by reviewing (1) the time when the EDC could first deploy resources safely in its service territory, (2) the first of any official declarations about the end of the emergency, or (3) the expiration of any National Weather Service warning applicable to the service territory.

It also changes the types of emergencies subject to these requirements by (1) removing tsunamis, volcanic eruptions, and attacks by enemies of the United States from the types of emergencies covered by the provision; and (2) exempting emergencies that result in 70% or more of an EDC's customers experiencing an outage at the period of peak demand.

Waivers

Current law allows the EDCs, within 14 days after an emergency occurs, to petition PURA for a waiver from the requirements to provide account credits and compensation for lost food and medicine. The bill prohibits PURA from granting these waivers for an emergency that results in less than 10% of the company's customers experiencing an outage at the period of peak electrical demand.

The bill also requires the waiver petitions to include information about line and restoration crew safety issues, rather than all employee safety issues, as current law requires.

EFFECTIVE DATE: October 1, 2023

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute
Yea 16 Nay 4 (03/14/2023)