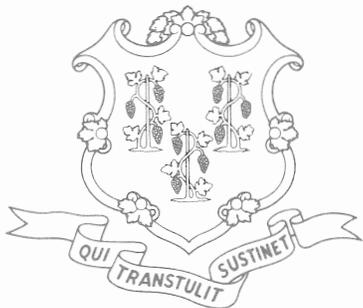


Department of Public Utility Control

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

September 1984

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

1983-84 Committee Members

Senate

Kevin P. Johnston, Cochairperson
John C. Daniels
M. Adela Eads
Fred H. Lovegrove, Jr.
Richard F. Schneller
Carl A. Zinsser

House

Dorothy K. Osler, Cochairperson
Maureen Murphy Baronian
Abraham L. Giles
Vincent A. Roberti
William J. Scully, Jr.
David W. Smith

Committee Staff

Michael L. Nauer, Ph.D., Director
Anne E. McAloon, Program Review Coordinator
George W. McKee, Chief Analyst
Carrie E. Vibert, Staff Attorney
L. Spencer Cain, Senior Analyst
Catherine McNeill Conlin, Program Analyst
Debra S. Eyges, Program Analyst
Jill E. Jensen, Program Analyst
Michael O'Malley, Program Analyst
Nancy J. Treer, Program Analyst
Lillian B. Crovo, Administrative Assistant
Mary Lou Derr, Administrative Assistant

Staff on this Project

Anne E. McAloon, Michael O'Malley, Nancy J. Treer

Legislative Office Building, 18 Trinity St., Hartford, CT 06106 (203)566-8480

THE DEPARTMENT OF PUBLIC UTILITY CONTROL:

A PERFORMANCE AUDIT

LEGISLATIVE PROGRAM REVIEW AND

INVESTIGATIONS COMMITTEE

SEPTEMBER 1984

TABLE OF CONTENTS

SUMMARY.....	i
INTRODUCTION.....	1
I. OPERATIONAL ISSUES.....	3
Executive Director.....	5
Rate Case Staff.....	5
Regulation of Small Water Companies.....	6
Commissioner Qualifications.....	7
Commissioner Selection.....	7
Public Awareness.....	9
Agency Planning.....	9
II. MANAGEMENT AUDITS.....	11
Background.....	11
Findings and Recommendations.....	17
Mandatory Audit Requirements.....	17
Audit Procedures Manual.....	18
Consultant Selection.....	19
Consultant Performance Evaluation.....	20
Staff Documents.....	20
Consultation Between Divisions.....	21
Audit Recommendations.....	22
Utility Implementation Plans.....	23
Compliance Monitoring.....	24
Generic Audits.....	25
Staff Participation in Consultant Audits.....	25
Clerical Staff.....	26
III. TRUCKING REGULATION.....	27
Background.....	27
Findings and Recommendations.....	30
Economic Regulation.....	30
Funding of Truck Regulation.....	36
Issuing Identification Stamps.....	36
Enforcement Activities.....	37
Interstate Commerce Commission Supplemental Authorities.....	38
Refund Policies.....	39
Regulations.....	39
Motor Carrier Annual Reports.....	40

IV. DEPARTMENTAL PROCESSES AND PROCEDURES.....	41
100 Percent Funding.....	41
Statutory Compliance.....	41
Executive Sessions.....	42
Statutory Deletions.....	42
Data Processing.....	42
Presentation of Information.....	44
Written Procedures.....	44
Decision Index.....	45
Hearing Examiners.....	45
Staff Training and Communication.....	46
Consumer Assistance.....	46
Employment Restrictions.....	47

APPENDICES

A. Performance Audit Methodology.....	51
B. History of the Department of Public Utility Control.....	53
C. Department of Public Utility Control Professional. Staff Questionnaire re Management Audits.....	57
D. Truck Deregulation State Survey Methodologies.....	59
E. Legislative Changes Needed to Implement Committee Recommendations.....	60

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Department of Public Utility Control: A Performance Audit

SUMMARY

Increasing concerns about rising energy costs and the quality of service provided by some utility companies in Connecticut prompted the Legislative Program Review and Investigations Committee to conduct a performance audit of the Department of Public Utility Control (DPUC). The primary focus of the committee's review was the processes and procedures used by the department in regulating utilities.

There are several types of firms regulated by the department, and the scope of its regulatory responsibilities is broad. The department oversees 21 cable, 7 electric, 3 gas, 3 telephone, and 99 water companies operating in Connecticut. The department also regulates for-hire trucking operations, several pipeline companies, a telegraph company, and an express company. The powers of DPUC with respect to these companies include approving rates charged, supervising the safety of operations, performing management audits, regulating expansion, investigating complaints, and overseeing the transfer of assets.

The decision- and policy-making component of DPUC is the Public Utilities Control Authority, composed of five commissioners appointed by the governor to serve four-year terms. Since July 1984 an executive director has been responsible for overseeing the administrative operations of the department, including its staff of 102 people. The agency's state FY 84 budget was \$3.7 million.

An area of DPUC operations closely examined by the program review committee was the performance of utility management audits. Such audits look at the management systems and practices of a utility and document areas where improvements in operational procedures can be made.

The Department of Public Utility Control established the Utilities Operations and Management Analysis Division in 1977 to oversee the performance of management audits. Generally, smaller utility companies are examined by division staff in what are called staff audits. Consulting firms under the supervision of DPUC management analysts are used to examine the operations of larger utility firms.

In evaluating the department's use of both staff and consultant audits, the program review committee was concerned about the effectiveness of the audits in improving management practices. It is the belief of the committee that maximum benefits are not being realized from the audits because of statutory requirements mandating certain audits, the lack of written guidelines to assure

proper audit procedures were being followed, and incomplete oversight of utility compliance with audit recommendations.

The program review committee's recommendations focus on ensuring that all of the larger utility companies are audited on a regular basis and that the smaller companies are audited when necessary. The committee identified the need for written clarification of the tasks to be undertaken during an audit, standards by which audits will be evaluated, and additional follow-up efforts to assure that audit recommendations are implemented by the utilities.

Another area the program review committee extensively reviewed was the Department of Public Utility Control's regulation of trucking in Connecticut. In addition to the economic regulation of intrastate for-hire truckers (i.e., those hauling goods between points within the state), the department also monitors intrastate and interstate carriers through a requirement that they obtain annual identification stamps.

The Transportation Division within the Department of Public Utility Control has primary responsibility for these regulatory duties. The estimated cost of these activities for state FY 84 was \$376,000, which was paid through assessments on other utilities. The revenue from application fees and identification stamps for that same period was \$2.9 million, which was deposited in the state's General Fund.

Program review committee recommendations in this area concern the need for a change in the mechanism used to pay for regulating trucking and increased automation of Transportation Division procedures. Statutory revisions to clarify and streamline departmental procedures as well as revisions to state regulations concerning the types of information that must be provided to DPUC are also identified.

Many of the other issues addressed by the program review committee concern matters affecting the whole department. Several recommendations relate to the provision of information to utility customers by the department. Other recommendations concern compliance by DPUC with existing statutes, the need for expanded job-related training, and a revision in the restrictions on the future employment of commissioners.

MAJOR RECOMMENDATIONS

Management Audits

1. Amend C.G.S. Sec. 16-8(b) to require that only electric, gas, and telephone companies with more than \$50 million in revenues in the state of Connecticut be audited at least every six years. (p. 18)

2. The Department of Public Utility Control should develop a six-year schedule for all statutorily mandated audits, including estimated staff hours required for both audits and follow-up procedures. (p. 18)
3. The Department of Public Utility Control should develop an audit procedures manual describing the issues to be addressed and the tasks to be completed during management audits performed by department staff and outside consultants. (p. 19)
4. The Department of Public Utility Control should be required to establish a minimum qualification level for consultant firms performing management audits. (p. 19)
5. Amend C.G.S. Sec. 16-8(b) to require the Department of Public Utility Control to choose the consulting firm that will conduct an audit, but allow the utility being audited to offer advice to the department on the firms under consideration. (p. 20)
6. The Utilities Operations and Management Analysis Division of the Department of Public Utility Control should develop a specific plan for each staff management audit, including a list of specific issues to be addressed, an estimate of staff hours required, and a time frame for audit completion. (p. 21)
7. Require the management analysis division to consult with other Department of Public Utility Control divisions throughout the audit process. (p. 22)
8. The Department of Public Utility Control should require that all management audit recommendations be prioritized and include an estimate of the time necessary for implementation as well as a cost benefit analysis when applicable. (p. 23)
9. The Department of Public Utility Control should require the utility response to a management audit to include a plan specifying the steps to be taken to implement each recommendation and a time frame for implementation. Subsequent to submission of the plan, the department should specify in writing any recommendations with which it will not require the utility to comply. (p. 23)
10. The Department of Public Utility Control should require utilities that have been audited to report regularly on their progress in implementing audit recommendations at intervals not to exceed one year. (p. 24)
11. The Department of Public Utility Control should require the Utilities Operations and Management Analysis Division to assess utility compliance with audit recommendations when progress reports are received. Questions concerning areas of

serious noncompliance should be pursued through a compliance hearing or as part of an active rate case. (p. 25)

12. For training purposes, the participation of Utilities Operations Management Analysis Division staff in audits performed by outside consultants should be increased. (p. 26)

Trucking Regulation

13. Funding of truck regulation by public service companies should be discontinued, and the money for administering this function should be taken out of the fees collected for identification stamps. (p. 36)
14. The Department of Public Utility Control should automate the issuance of identification stamps. (p. 36)
15. The Department of Public Utility Control should increase its enforcement efforts (i.e., suspension and revocation activities) to ensure prompt action is taken against carriers without identification stamps or proper insurance. (p. 37)
16. A statutory late fee should be instituted for renewal stamps purchased after the February 1 deadline. (p. 38)

Departmental Processes and Procedures

17. Amend C.G.S. Sec. 16-49 to permanently extend the requirement that public service companies pay all expenses of the Department of Public Utility Control and the Division of Consumer Counsel. (p. 41)
18. The Department of Public Utility Control should submit a plan to the legislature's Energy and Public Utilities Committee specifying how and when it will carry out the investigations and public hearings mandated by C.G.S. Sec. 16-19e(b) (p. 42)
19. A written summary of the rights and responsibilities of customers appealing the actions of public service companies or intervening in rate cases should be available. Specific information about the manner in which departmental hearings are conducted should be given to anyone appearing before the Department of Public Utility Control. (p. 45)
20. An index of Department of Public Utility Control decisions should be created that identifies the principal issues and orders in completed cases. (p. 45)
21. Amend C.G.S. Sec. 16-2(k) to prohibit the Department of Public Utility Control commissioners from accepting employment by utility associations or trade groups active in lobbying on matters related to governmental regulation of utilities for a period of one year following termination as a commissioner. (p. 47)

INTRODUCTION

Rising energy costs, the expansion of cable television franchises into new areas, and problems with the quality and quantity of water available from some small water companies have focused increasing attention in recent years on how utilities in Connecticut are regulated. In addition to questions about who is responsible for overseeing the operations of these industries, there have been questions about how decisions on the accessibility and the cost of service are made.

In February 1983 the Legislative Program Review and Investigations Committee voted to conduct a performance audit of the Department of Public Utility Control (DPUC), the state agency that regulates utilities.¹ Committee members were interested in the processes and procedures used by the department, the allocation of resources within the department for various regulated industries, and the appropriate level of state regulation for those industries.

The committee's audit did not address individual rate cases or specific policy issues (e.g., construction-work-in-progress). Instead, it focused on departmental operations and concentrated on those aspects where improvements in efficiency and effectiveness seemed most likely. A number of areas in need of change were identified, and 37 specific recommendations were made by the committee.

Separate chapters are presented on trucking regulation and the performance of utility management audits. Each chapter contains background information followed by the committee's specific findings and recommendations. The final chapter of the report covers a variety of general recommendations affecting the agency as a whole or divisions of the department other than transportation and management analysis.

Several other changes being considered by the committee during its audit were adopted by the legislature before the completion of the study. Those issues as well as several others examined by the committee but where no changes were recommended are presented in the first chapter of the report.

¹ Statutorily, the Department of Public Utility Control has jurisdiction over public service companies, which are defined to include community antenna television, electric, gas, pipeline, telegraph, telephone, sewage, street railway, and water companies. The department also regulates for-hire trucking firms.

CHAPTER I

OPERATIONAL ISSUES

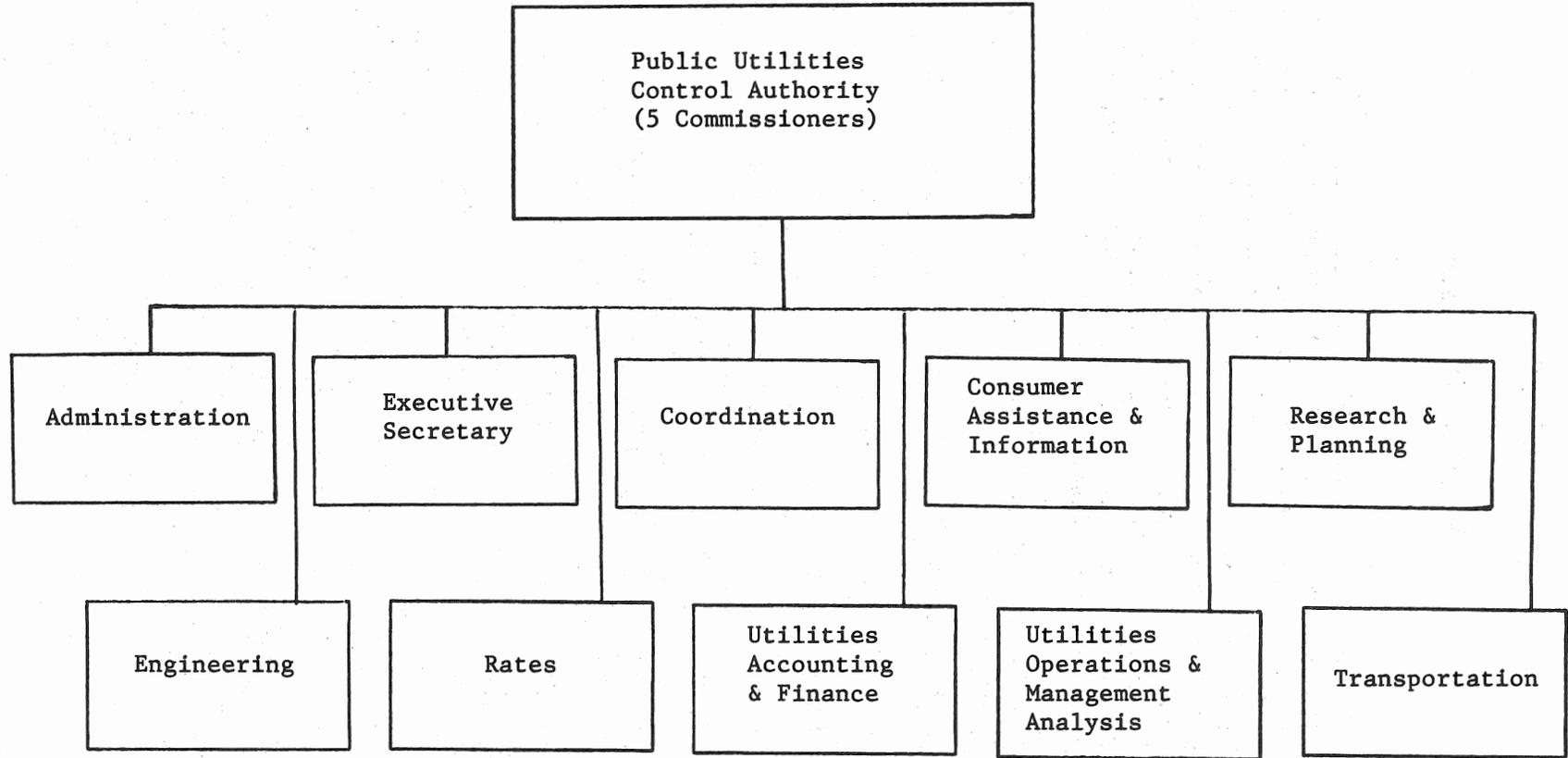
The Department of Public Utility Control, officially created in 1975, is the successor to several state regulatory bodies with similar mandates. (See Appendix B for a detailed history of the structure, powers, and duties of the regulatory agencies since the creation of the original Public Utilities Commission in 1911.) The department has broad responsibility for regulating 21 cable, 7 electric, 3 gas, 3 telephone, and 99 water companies operating in Connecticut. The department also regulates for-hire trucking operations in the state, several pipeline companies, a telegraph company, and an express company.

The regulatory powers of the department with respect to these companies include:

- approving the level and structure of rates charged;
- supervising the safety of operations;
- performing management audits;
- regulating the expansion of plant and equipment;
- investigating and resolving complaints;
- regulating the transfer of existing assets and franchises;
- investigating procurement practices;
- approving all transfers of assets and franchises, or issuance of notes, bonds, or other securities; and
- requiring annual audits.

Five commissioners, appointed by the governor and collectively called the Public Utilities Control Authority, are the decision- and policy-making component of the agency. Prior to the appointment of an executive director in July 1984, the five commissioners were designated as head of the agency, but day-to-day administrative tasks were handled by the chairperson of the authority. The department had an average staff of 102 allocated among 10 divisions during the review period. An organizational chart of the department is presented in Figure I-1.

Figure I-1. Department of Public Utility Control Organizational Chart--State FY 84.



Executive Director

The executive director concept had been under consideration by the program review committee since early in its review. One of the deficiencies in DPUC operations identified during the committee's audit was the lack of an individual at the top of the agency available to work full time on administrative functions. The chairperson was spending increasing amounts of time on paperwork needed to resolve personnel matters and other routine agency functions. This allocation of time was sufficient to deal with immediate concerns but did not allow for long-range planning and coordination. The chairperson also had less time available to spend reviewing and deliberating on cases pending before the department.

The major change in the operating structure of the Department of Public Utility Control adopted during the 1984 legislative session was the creation of an executive director position. Effective July 1, 1984, Public Act 84-342 created such a position to serve as chief administrative officer and oversee departmental operations. The act also specifies that the chairperson alone is the head of the department. As a result of this legislation, the program review committee did not need to make a recommendation in this area.

Rate Case Staff

Another change included in P.A. 84-342 was a requirement that a portion of the DPUC staff become a "party" in utility rate proceedings. Generally, when a public service company submits a request for a change in its rates, departmental staff review the information provided. Staff may then require additional information either in writing or verbally during a hearing before the commissioners. The consumer counsel and certain utility customers who have been designated as parties or intervenors in a case are allowed to ask questions of the utility and bring in outside witnesses to testify on components of the rate case. Public hearings are also held at which any customer of the particular utility may testify.

Under the new act, the role of Department of Public Utility Control staff as a party to a case will include reviewing the proposed rate amendment and filing with the commissioners proposed modifications of the amendment. The staff will appear and participate in departmental hearings in support of the modifications. Outside consultants knowledgeable in utility regulation may be hired to assist the staff. The commissioners will be prohibited from communicating with this staff outside the formal hearing process.

Initially, such staff participation will be mandatory only for cases involving electric and telephone companies with more than 500,000 customers. By July 1, 1986, staff participation will be required for all rate cases involving utilities serving more than 75,000 customers.

Several other states designate separate agency staff to put on active cases during a rate proceeding. The extent of the case put on by staff can vary. In some states, the agency staff may put on a complete alternative case presenting specific expense and revenue figures to support particular rates. In other states, staff may focus on one or two areas of expense or the assumptions behind particular calculations.

In Connecticut, establishment of this system should produce additional information during rate case proceedings and may assist utility customer understanding of the facts and claims of a particular request. In order to give the system time to become operational, the program review committee did not make any recommendations regarding staff participation in rate cases.

Regulation of Small Water Companies

The Department of Public Utility Control is responsible for regulating approximately 100 water companies serving close to 300,000 people. The companies represent 75 percent of all public service companies regulated, but only 8 percent of the customers served by regulated companies.

Questions were raised early in the program review committee's performance audit about whether a disproportionate amount of DPUC resources were required to regulate water companies. In fact, while a relatively small number of consumers are served by the regulated water companies in comparison, for example, with regulated electric companies, the problems of the water companies are large. The availability and quality of the water provided by these companies, particularly the smaller firms serving less than 1,000 people, are often questionable.

Recognizing that solutions to the resource and equipment problems of these companies are not easy, the Connecticut Water Resources Task Force was set up in 1982 by the legislature. The purpose of this group is to evaluate and make recommendations concerning the authority of state agencies in the management of water resources for public water supplies.

During the 1984 legislative session, several task force proposals were adopted. Because the task force is continuing its detailed examination of these problems, the program review committee did not recommend any specific changes as part of this performance audit.

Commissioner Qualifications

A recurring issue throughout the program review committee's study was the type of qualifications commissioners should be required to have. Currently, the five commissioners are appointed by the governor with the advice and consent of the General Assembly. At least three of the five must have training or experience in two of the following areas: economics, law, accounting, or finance. Appointments are for four-year terms, with no more than three commissioners up for reappointment at any one time. The commissioners work full time and receive salaries of approximately \$55,000.

Proposals have been made to require that at least one commissioner represent low-income consumers. This individual would be either low income or have training or experience working with low-income people. Since there are no specific requirements for two of the five commissioners nothing precludes such an appointment now.

The development of new statutory language clear enough to mandate the intent of such a proposal without severely restricting the individuals eligible for appointment would be difficult. The labeling of one commissioner as the "consumer" commissioner could also place an unfair burden on that person and create unattainable expectations. No matter what background a commissioner has, the same statutory criteria for evaluating rate requests apply, and those criteria require balancing a number of considerations in setting specific rates for public service companies. Therefore, the program review committee makes no recommendation for a change in this area.

Commissioner Selection

An issue related to commissioner qualifications is the process by which commissioners are selected. There are 11 states² that elect commissioners to regulate utilities. In 37 states commissioners are appointed; 2 states provide for the selection of commissioners by the legislature. Recently, proposals for electing commissioners have gained support. In the last three years at least 17 states have witnessed referenda or legislative activity to change to elected commissioners. However, since 1970 only two states (Florida and Minnesota) have actually switched selection methods. In both cases the change was from elected to appointed commissioners.

² Alabama, Arizona, Georgia, Louisiana, Mississippi, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Tennessee.

Proponents of elected commissioners argue that this selection method is desirable because elected commissioners are more accountable and responsive to constituents and thus will be more likely to hold down utility rates. Advocates for appointed commissioners argue that appointees tend to be better qualified than elected commissioners and that political considerations distort regulatory decision-making in elective states.

Several articles and reports have compared rates and other variables in elected and appointed states. An April 1983 report by the Illinois Department of Energy and Natural Resources compared over 50 factors in elected and appointed states.³ The major conclusion of the report was that, although there were no significant differences on some issues (e.g., return on equity, residential rates), regulatory lag tended to be longer in appointed states, elected commissions were more likely to include construction-work-in-progress in a company's rate base, and elected commissioners were not required to possess any professional qualifications.

A September 1983 study of the effect of the commissioner selection method on electric rates concluded that while states with elected utility commissioners had lower rates statistically, this fact could not be attributed to the method of selecting commissioners.⁴ Rates charged by 110 utilities were analyzed, and when major factors affecting electricity rates (e.g., region, customer mix, population density, state and local taxes) were considered, the method of choosing commissioners was found to have no significant net impact on rates.

At public hearings conducted by the Legislative Program Review and Investigations Committee, appointment of commissioners was supported by the Division of Consumer Counsel, the Connecticut Siting Council, the Connecticut Business and Industry Association, the Connecticut Industrial Energy Consumers, and representatives of various utilities. Election of commissioners was supported by several individuals associated with the Connecticut Citizens Action Group. Since the election of commissioners has not proven a significant factor in other states and in light of the broad-based support for this method in Connecticut, no recommendation

³ Illinois Department of Energy and Natural Resources, Commissioner Selection and Qualification; Public Representation and Participation, April, 1983.

⁴ Malcolm C. Harris and Peter Navarro, "Does Electing Public Utility Commissioners Bring Lower Electric Rates?", Public Utilities Fortrightly, September 1, 1983, pp. 23-27.

was made by the committee to change the selection method for commissioners.

Public Awareness

The program review committee was concerned about the failure of the DPUC commissioners to make greater efforts to improve public awareness of the department's operations. Information about major utility rate applications acted on by the department is generally reported extensively by the media in the utility's service area. Detailed descriptions of how the commissioners arrive at decisions or about the other functions of the department are rarely presented to the public.

The rise in utility rates in recent years has been matched by an increase in public dissatisfaction with actions taken by the Department of Public Utility Control. Although somewhat restricted by state regulations and laws regarding comments on pending rate cases, the five commissioners have taken only limited actions to improve public understanding of the department's roles and responsibilities.

While the commissioners should not be required to make public comments, they should be more conscious of the need to make more information available about agency powers and duties. The commissioners should be concerned about improving the public image of the department by increasing awareness of consumer services provided as well as the process by which the commissioners arrive at decisions. They should also take steps to alert the legislature to issues affecting utility customers where the solutions are outside the direct control of the department but where legislative changes might be helpful.

Another area where public relations could be improved is at public hearings. Staff besides the commissioners, who cannot comment directly on a pending case, should be present to answer questions about the specific factual components of the case or department procedures in general.

Agency Planning

The program review committee's evaluation of the Department of Public Utility Control found limited evidence of planning for the future. The commissioners do not seem to spend any time as a group discussing or deciding on long range plans for the department. There have been no discussions about the future direction of the agency. For example, the department did not fully assess its data processing needs before it decided to purchase computer equipment in the spring of 1984.

The commissioners have not devoted any time to broader policy areas either. No one would expect the commissioners to set down specific predetermined policies in major areas such as the future role of telecommunications utilities or the need for more electric-generation plants of a particular fuel type. However, the basis for making decisions should be established before the agency is faced with making an immediate determination on such an issue.

Many of the critical issues and problems confronting utility industries today, particularly power, communications, and water in Connecticut, have been emerging for more than a decade. A policy planning and development process within the Department of Public Utility Control would enable the agency to create a decision framework that is dynamic and proactive, rather than reactive.

Additionally, policy planning would force the department to gather and analyze aggregate data pertinent to utility issues and regulation. Ensuring the availability of the data necessary to make policy decisions does not seem to have been a primary concern of the department. In the past few years the research unit of the agency has been allowed to shrink to one person. Plans are underway to add resources to this area. That should be a priority of the department in order to ensure the availability of accurate, up-to-date information.

CHAPTER II

MANAGEMENT AUDITS

Background

For regulated utilities, competition is limited and cannot be relied upon to eliminate ineffectively managed companies. This factor, combined with the rising energy costs of the past decade, has led to an intensified interest in ensuring that utilities are run properly. As a result, state regulatory commissions have initiated management audits to oversee utility management practices and to modify, when necessary, utility operations. Between 1977 and 1982, 28 state regulatory commissions conducted over 100 management audits of utility companies throughout the United States.

A management audit is an examination of an organization's management systems and practices, and may focus on some or all aspects of a company's operation. The auditors document areas where the organization is well administered and where there are opportunities for improvements. In the latter case, changes in operational procedures are recommended.

In Connecticut, the legislature first addressed the issue of utility management audits in 1975 with Public Act 75-486. The act permits the Department of Public Utility Control to conduct management audits of any regulated public service company and mandates audits of certain such companies. The department is authorized to order the performance of these audits by DPUC management audit teams, public service company audit staff, or independent management consulting firms.

Utilities Operations and Management Analysis Division. In 1977, the Department of Public Utility Control established the Utilities Operations and Management Analysis Division to oversee the performance of management audits. Since then, the size of the division has ranged from three to six staff members. Currently, the division is staffed by three utilities operations analysts and a division director. Funds have been appropriated to hire an additional analyst during state FY 85.

Funding for the management analysis division during the last five state fiscal years has averaged \$123,000. The appropriation for state FY 85 was increased to \$201,244 from \$157,317 for FY 84 because of the proposed addition to the staff.

Since the establishment of the division in 1977, staff has conducted 12 management audits and supervised 13 audits performed by outside consultants. Division staff also conducted nine staff

implementation audits, which monitored utility compliance with previous audit recommendations. (See Table II-1.)

Table II-1. Management Analysis Division Audits Completed-- State FY 77-FY 84.

	<u>Utility Companies</u>					<u>Total</u>
	<u>Gas</u>	<u>Electric</u>	<u>Telephone</u>	<u>Water</u>	<u>Cable TV</u>	
Consultant Audits	4	3	1	4	0	12
Staff Audits	0	1	1	4	7	13
Staff Implementation Audits	2	3	1	2	1	9

Source: Department of Public Utility Control.

Management analysis division staff also participated in six departmental proceedings held to determine whether a particular utility should be granted a rate increase. During these rate cases, division analysts examined some of the utility's management practices and questioned the company's compliance with audit recommendations. When the department found that the utility had not taken appropriate actions to implement the recommendations, the utility was prohibited from charging consumers for some of its business expenses.

Management audit process. Management audits have been conducted by the Department of Public Utility Control to meet statutory requirements and to investigate specific operational problems within a utility. Once the decision is made to audit a utility, the management analysis division determines who will conduct the audit.

Staff audits are performed by management analysts working for the Department of Public Utility Control. Because of the limited number of analysts, staff audits have been used to examine the operations of the smaller utility companies. As a result, most water and cable television company audits have been conducted by the management analysis division.

Consultant audits are performed by outside consulting firms under the supervision of DPUC management analysts. Because outside consulting firms have larger staffs and a wide range of expertise, consultants have been used to examine the operations of the larger, more complex utility companies.

In the next step of the process, the management analysis division determines the scope of the audit after contacting DPUC division directors familiar with the utility to be audited and requesting their opinions on problem areas within the company. The audit scope may require an examination of some or all aspects of a utility's operations. The scope of staff audits has ranged from an examination of a single utility function to a general review of all operating functions. The trend in conducting consultant audits has been to narrow the audit scope.

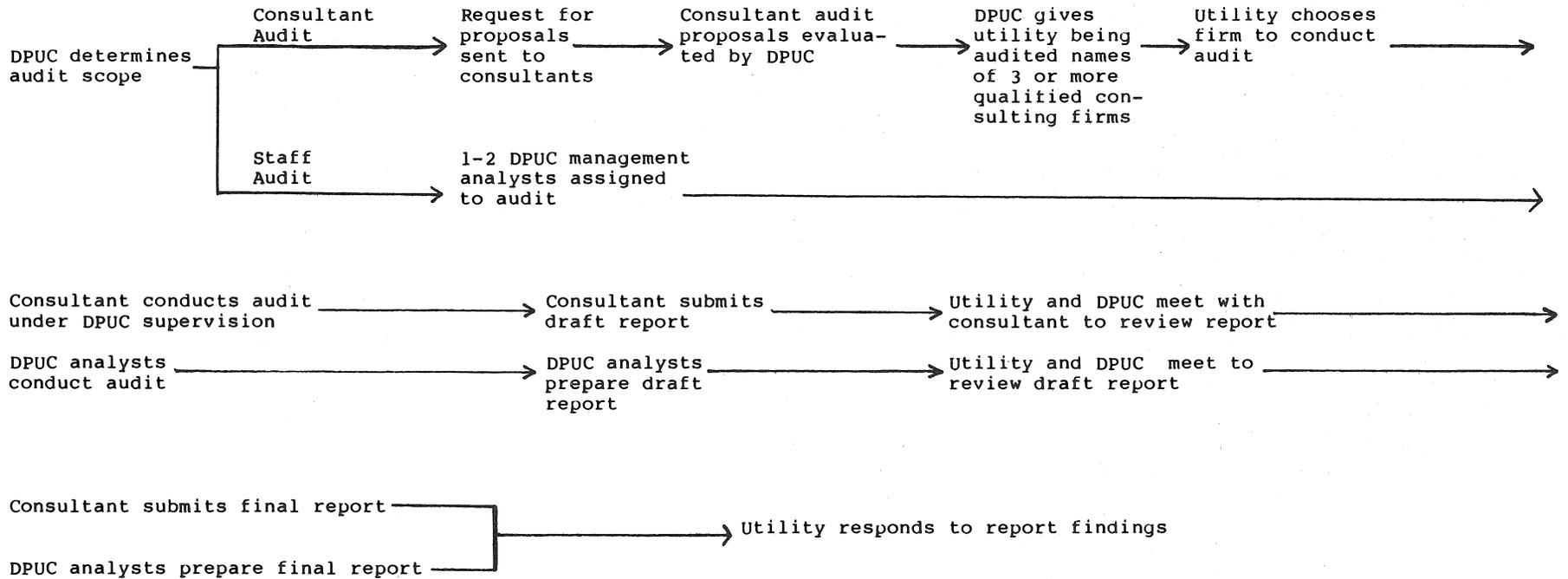
Specific written guidelines for conducting staff and consultant audits have not been established by the Department of Public Utility Control. However, certain audit procedures have been consistently used by the management analysis division. Figure II-1 illustrates the process for both staff and consultant audits.

When a consultant audit is conducted, the management analysis division begins the consultant selection process by preparing a request for proposal. This document outlines the audit's scope and the types of information that must be provided by companies interested in performing the audit. Requests for proposal are sent to consulting firms whose qualifications are on file with the department and which the department believes are likely to have sufficient staff size and expertise to conduct the proposed audit.

Consulting firms interested in performing the management audit submit a proposal to the department. This proposal outlines the firm's past experience in utilities operations analysis and presents a plan for investigating the issues outlined by the department. Included in the plan are the personnel to be assigned to the audit, the staff hours required, and a cost estimate for conducting the audit.

State statute requires the department to submit a list of at least three qualified consulting firms, at least two of which must be nationally recognized, to the utility to be audited. There is no written definition of a nationally recognized firm, but the division requires that such firms be familiar to the national and international business communities. The list of consultants for each audit is reviewed by the DPUC commissioners and forwarded to the utility to be audited. The utility then selects the consulting firm from that list.

Figure II-1. Department of Public Utility Control Management Audit Process.



Once the audit begins, the primary role of management analysis division staff is to oversee consultant activities. Generally, one or two department analysts are assigned to each consultant audit. These analysts are advised of scheduled consultant activities, attend selected consultant interviews of utility personnel, and review consultant bills.

State statute requires that the audited utility pay all consultant fees. It is the responsibility of the Utilities Operations and Management Analysis Division to ensure that consultant bills are accurate and in accordance with estimates provided in the consultant proposal. The cost of the management audit is considered a proper business expense for the utility.

Once the consultant firm has completed its examination of the utility's records and operations, a draft audit report is prepared for review by the department and the audited utility. The consultants, DPUC management analysts, and utility personnel involved in the audit meet to review the findings and recommendations presented in the draft report. The report is intended to reflect the consultant's assessment of utility operations so modifications are generally limited to corrections of factual errors and clarifications of report language.

Department of Public Utility Control oversight of consultant activities is intended to ensure that consultant firms follow the audit plan, address the specific concerns of the department, and provide the type of information that will be useful to the department. Oversight activities also provide knowledge of utility personnel and operations that is useful in monitoring compliance with audit recommendations.

When the Utilities Operations and Management Analysis Division conducts staff audits, division analysts plan, research, and write the audit report. Staff activities typically include interviewing utility personnel, collecting and analyzing data, and formulating recommendations to improve utility operations. At the conclusion of the research phase, a draft audit report is prepared, and the utility is given an opportunity to review and comment on the report. After this review, the division determines whether the draft report should be modified. Any changes are incorporated in the final audit report.

Compliance monitoring. After the completion of both staff and consultant audits, the management analysis division is responsible for monitoring utility compliance with audit recommendations. In most cases, within six months of an audit's completion, the utility is asked to state the company's position on each recommendation. When the utility agrees with a recommendation, the company's response generally includes a statement of how the proposed changes will be or already have been implemented. In

cases where the utility disagrees with audit recommendations, the response contains an explanation of the reasons for disagreement, and no implementation plan is developed.

State statute provides the Department of Public Utility Control with the authority to order the implementation of management audit recommendations. After conducting hearings the department may order the utility to alter its operations if a management audit discloses improper operating procedures. Thus far, this power has not been used. Instead, the department has relied on rate case proceedings and staff implementation audits as the primary means of monitoring utility compliance with audit recommendations.

Findings and Recommendations

The management analysis division was examined by program review committee staff to determine whether management audits were being used effectively to improve utility management practices. The committee's review indicated that, as a result of current practices, the Department of Public Utility Control has not realized the maximum benefit from its management audits.

While the department has conducted a large number of management audits, the present audit system has not always resulted in the best use of management analysis division resources. Statutory requirements for management audits are too broad and require cyclical audits of utilities that may not be necessary. At the same time, management audits that have been conducted have not always addressed the most serious problems within the utilities.

In addition, there are no written guidelines to assure that proper audit procedures are followed. Oversight of utility compliance with audit recommendations has also been incomplete. The department has not regularly monitored utility actions to implement all audit findings, and it is impossible to determine whether utilities are in compliance with all audit recommendations.

Mandatory Audit Requirements

Currently, the Department of Public Utility Control is required to perform management audits of all electric, gas, and telephone companies every three to six years. State statute also addresses management audits of water companies, but does not clearly define which companies must be audited and at what intervals. Other public service companies can be audited by the department at its discretion.

In Connecticut, 11 electric, gas, and telephone companies of varying size fall under the mandatory audit requirement. In 1982, the operating revenues of the six largest utilities ranged from approximately \$160 million to \$1.28 billion. During the same year, operating revenues for the five smallest companies ranged from approximately \$150,000 to \$18.3 million.

The operations of these small utility companies are less complex and do not affect as many consumers as the large utility operations. As a result, conducting audits of the small utilities every three to six years may benefit only a limited number of consumers yet require a substantial amount of department staff time. To enable the department to allocate its staff time more efficiently, the program review committee believes the decision to

conduct management audits of the small utility companies should be left to the discretion of the department. Thus, the **Legislative Program Review and Investigations Committee** recommends that C.G.S. Sec. 16-8(b) be amended to require that only electric, gas, and telephone companies with more than \$50 million in revenues in the state of Connecticut be audited at least every six years.

The fact that the Department of Public Utility Control has not met its statutory mandate to conduct management audits of all electric, gas, and telephone companies at least every six years was a concern of the program review committee. Fletcher Electric Light Company and Pequot Gas Company, the two companies that have never been audited by the management analysis division, would fall under the proposed exemption. However, Southern New England Telephone Company would not be exempt, and it has not been audited since 1978. With current staffing levels, it will be difficult for the department to begin an audit of that company this year.

Plans should be made by the department to ensure that sufficient staff time is allocated to conduct mandatory audits. The **Legislative Program Review and Investigations Committee** recommends that the Department of Public Utility Control develop a six-year schedule for all statutorily mandated audits. Estimated staff hours required for both audits and follow-up procedures should be included. The department should regularly review and adjust the schedule. Discretionary audits should be scheduled as remaining staff hours allow.

Audit Procedures Manual

The Utilities Operations and Management Analysis Division of the Department of Public Utility Control has no written guidelines for conducting management audits. There is no reference source specifying proper procedures for carrying out management audits by department staff or outside consultants. The lack of guidelines, particularly in the areas of audit planning and compliance monitoring, has resulted in audit procedures that have not always been well defined or uniformly applied.

The program review committee believes written guidelines would ensure that uniform audit procedures were used and that an explanation of these procedures would be readily available to Department of Public Utility Control staff, consulting firms, and utility companies. The initial development of these guidelines would also be a useful training mechanism for management audit staff members to gain additional knowledge of proper audit procedures. Once completed, these guidelines would be available for training future division staff and would serve as a reference source for all management analysts on audit procedures.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control develop an audit procedures manual describing the issues to be addressed and the tasks to be completed during management audits performed by department staff and outside consultants. At a minimum, the manual should include:

- a description of the steps to be followed in conducting both consultant and staff audits;
- a description of the documents to be produced during the audit process (e.g., the request for proposal, the consultant proposal, the utility response, etc.) and the information to be included in each of those documents;
- a description of functions within the utilities that may be examined during a management audit as well as a list of the major utility documents to be analyzed in each of those areas; and
- a copy of all standard forms used by the Utilities Operations Management Analysis Division.

Consultant Selection

Currently, the Department of Public Utility Control may choose to have an outside consulting firm conduct a management audit. In those cases, DPUC solicits proposals from consultants, evaluates them, and sends the utility being audited a list of at least three qualified firms. From this list the utility selects the auditor.

Minimum qualifications for use in determining the final list of consulting firms have not been established. Since the depth of qualifications firms possess cover a wide range, there should be standards to ensure that only those consultants with the necessary staff and technical expertise are considered to conduct management audits.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control be required to establish a minimum qualification level for consultant firms performing management audits. The program review committee believes that for each audit, the department should weight the consultant selection criteria and determine the lowest rating acceptable for the audit project. Firms that fall below the minimum rating should be eliminated from consideration.

Under the current selection system the committee is also concerned that the most competent consulting firm may not be selected

to conduct an audit. One consulting firm may be superior to the other firms placed on the list by the department, yet there is no requirement that the utility choose the most qualified consultant. In addition, since the department determines the focus of the audit, it is in a better position to judge which consulting firm can provide the best mix of expertise to meet the intent of the audit.

The program review committee does recognize that the expertise of the utility to be audited can be useful to the department in evaluating consultant credentials. Therefore, **the Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 16-8(b) be amended to require the Department of Public Utility Control to choose the consultant firm that will conduct an audit, but allow the utility being audited to offer advice to the department on the firms under consideration.**

Consultant Performance Evaluation

The Department of Public Utility Control does not prepare written evaluations of consulting firms' performance in conducting management audits. As a result, when a firm applies to conduct another management audit, there is no record of the strengths and weaknesses of the company's previous work for the department. While department analysts who have worked with the consulting firm can provide some information on the consultant's past performance, staff turn over has made this an unreliable reference source for the division.

To ensure that a complete and accurate evaluation of consultant performance is available to the department, **the Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control be required to evaluate consultant performance at the conclusion of each audit performed by an outside consultant. Standard evaluation criteria, including an analysis of consultant performance in meeting audit proposal requirements, should be developed; this evaluation should be retained for use in evaluating future audit proposals submitted by the consultant firm.**

Staff Documents

Currently, the Department of Public Utility Control sends a letter to a utility being audited by departmental staff that describes the major areas of investigation. However, the department does not prepare a written plan describing the issues to be addressed, the staff hours needed, or the time frame required for the audit.

An audit plan would be a useful tool for organizing the work of the management audit staff, focusing staff attention on key

issues, and ensuring that work proceeds on schedule. Therefore, the Legislative Program Review and Investigations Committee recommends that the Utilities Operations and Management Analysis Division of the Department of Public Utility Control be required to develop a specific plan for each staff management audit, including a list of specific issues to be addressed, an estimate of staff hours required, and a time frame for audit completion.

The management analysis division maintains files of work papers for each staff audit conducted. Included in these files are interview notes, utility documents, and correspondence between the department and the utility. However, these files often lack organization. The specific issues analyzed, individuals interviewed, documents examined, and staff hours spent during a particular audit cannot always be determined.

The program review committee believes a written record of staff activities--a staff worksheet--should be available for each audit conducted by the Department of Public Utility Control. During an audit, the project supervisor would be able to review staff worksheets periodically to ensure that all required information is being obtained. At the conclusion of an audit, the worksheet would be useful for evaluating staff performance. When utility compliance with audit recommendations is reviewed, information would be easily accessible about areas where operational problems occurred or where no problems were discovered.

Thus, the Legislative Program Review and Investigations Committee recommends that the Utilities Operations and Management Analysis Division of the Department of Public Utility Control develop a standardize worksheet form for use during all staff audits. The worksheet should include information on issues addressed, utility personnel formally interviewed, utility documents requested, documents analyzed, and staff hours spent during the audit.

Consultation Between Divisions

The management analysis division is not required to seek input from other DPUC divisions during the course of an audit. However, comments from other division directors are generally requested to help in determining the scope of an audit. Individual analysts have also sought technical advice on utility operations from the engineering, accounting, and rates divisions.

The program review committee conducted a survey of 34 professional staff members in 5 of the agency's divisions to determine the extent of communication between these divisions and the management audit staff. Fifty percent of the 34 respondents stated that they had never used management audit reports as a source of information in their work.

In response to a question asking if any changes should be made in the management audit process, 12 percent of those surveyed stated they did not know enough about the process to reply. Another 12 percent said more interaction between management analysis and other department divisions is necessary. Twelve percent of the respondents stated that the content of management audit reports should be improved. These staff members cited errors in the technical information provided in the reports or a failure to address issues that were of primary concern to the department.

The program review committee believes that a more frequent exchange of ideas among department staff would improve the quality of management audits. The technical expertise and work experience of DPUC staff in other divisions would assist management analysts in focusing the audit on problem areas within a particular utility and formulating effective solutions to these problems.

The Legislative Program Review and Investigations Committee recommends that the Utilities Operations and Management Analysis Division be required to consult with other Department of Public Utility Control divisions throughout the audit process. As part of this consultation and coordination, the division should:

- request suggestions from all professional staff whose expertise may contribute to defining the scope of a particular audit;
- provide an outline of the issues to be addressed in the audit to all agency divisions for comment after the focus of the audit has been determined;
- provide a copy of the draft audit report to each division and request comments prior to the meeting to review the draft report with the utility; and
- request professional staff from other divisions to attend meetings to review the draft report when special expertise is required.

Audit Recommendations

The Department of Public Utility Control requires consulting firms to prioritize their audit recommendations. However, this requirement has not been strictly enforced. In two of the four most recent consultant audits, the recommendations were prioritized within each department examined but no overall ranking system was established.

Consulting firms must also include a time estimate for implementation and a cost benefit analysis whenever applicable for each

audit recommendation. There is no requirement that staff audit recommendations meet any of these specifications.

The program review committee believes all of these elements should be included for all audit recommendations. Prioritized recommendations indicate which improvements the auditor considers most important to the efficient and effective operation of the utility. They indicate the areas where the utility should expend its greatest efforts in changing operational procedures. Estimates of implementation time are necessary to determine whether the utility's plans to act on audit recommendations are realistic. Cost benefit data provide information useful in determining the feasibility of implementing audit recommendations. Therefore, the **Legislative Program Review and Investigations Committee recommends that all management audit recommendations be prioritized and include an estimate of the time necessary for implementation as well as a cost benefit analysis when applicable.**

Utility Implementation Plans

At the conclusion of a management audit, the Department of Public Utility Control asks the utility to respond to the recommendations in the report. For each recommendation the utility response generally includes an explanatory statement of agreement or disagreement with the recommendation. When the utility agrees with the recommendation, the name of the person responsible for implementation and a description of the actions to be taken by the utility are also provided. However, the utilities have not consistently provided enough information to enable the department to compare estimated and actual utility performance in implementing recommendations.

When the utility disagrees with an audit recommendation, the response contains an explanation of the reasons for disagreement, and no implementation plan is developed. The department has not ordered the implementation of such recommendations, but if the problem is not resolved, it may be examined again in a rate case or a subsequent audit.

To improve oversight of utility compliance with audit recommendations, the **Legislative Program Review and Investigations Committee recommends that the utility response to a management audit include a plan specifying the steps to be taken to implement each recommendation and a time frame for implementation.** After reviewing the recommendations and the utility response to the audit, the department may determine that some recommendations should not be implemented. **The Legislative Program Review and Investigations Committee recommends that, subsequent to the submission of the utility's plan, the Department of Public Utility Control specify in writing any recommendations it will not require the utility to comply with.**

Compliance Monitoring

The Department of Public Utility Control follows up on audit recommendations primarily through staff implementation audits and questioning during rate cases. Both of these procedures require DPUC staff time to investigate issues and prepare written materials. A single implementation audit or rate case proceeding can require as many as 400 management analysis division staff hours to complete.

As a result of limited staff time, the division has been unable to utilize these procedures to monitor utility compliance with the recommendations in all 25 management audits completed to date. Follow-up has been limited to nine staff implementation audits and questioning in six rate case proceedings. In addition, staff implementation audits have been limited to the examination of utility compliance with recommendations during a specific time period. There is no established procedure to follow-up on recommendations that are only partially implemented at the time of the staff implementation audit.

The program review committee believes that department follow-up procedures would be more effective if the audited utility were required to regularly report on its progress in implementing recommendations. By requiring utility progress reports, the department would be informed of actions taken to implement all, rather than just a portion, of the audit recommendations. Progress reports would also enable the department to monitor utility activities until each of the recommendations is fully implemented.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control require utilities that have been audited to report regularly on their progress in implementing audit recommendations at intervals not to exceed one year. Progress reports should continue until all required recommendations have been completed. These reports should include:

- a list of recommendations implemented during the reporting period and an actual cost benefit analysis when applicable; and
- the status of each recommendation that has not been fully implemented, including an explanation of any delays or changes in the implementation plan.

A regular review of utility progress reports would enable DPUC to monitor the utility's performance in implementing recommendations with a minimum of department staff time. Since the reports would identify recommendations not implemented according to schedule, the department would be able to investigate problem

areas and determine when department action should be taken to ensure compliance.

The Legislative Program Review and Investigations Committee recommends that the Utilities Operations and Management Analysis Division of the Department of Public Utility Control be required to assess utility compliance with audit recommendations when progress reports are received. Questions concerning areas of serious noncompliance should be pursued through a compliance hearing or as part of an active rate case.

Generic Audits

In the past, staff audits have focused on the analysis of one or more operational areas within a single utility. Audit recommendations show that certain functions have been problem areas for a number of cable and water companies. For example, management analysts recommended changes in customer service operations in 6 of the 11 companies audited by department staff. Revisions in computer and data processing systems were also recommended in 6 of the 11 staff audits.

The program review committee believes that conducting generic audits that focus on a single problem common to a number of utility companies could be beneficial to Connecticut consumers. A generic audit would benefit the customers of all of the utilities examined without requiring the staff time necessary to conduct a complete audit of each company. In addition, management analysts would be able to compare utility operations in a specific area and draw conclusions as to the most effective approach to solving an operational problem. This knowledge could be used in formulating staff recommendations in future audits.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control consider conducting audits that focus on a specific problem area as it affects several utilities (i.e., conduct generic audits).

Staff Participation in Consultant Audits

The work of the management analysis staff requires technical knowledge of utility operations as well as auditing skills. Yet, most of the analysts in the division have come to the department with little or no experience analyzing utility operations. Formal training programs or courses in utility operations analysis are rarely offered and on-the-job training is the primary source for developing expertise. Under these circumstances, it is important that the management analysis division have an effective training program in utility operations analysis.

In the past, management analysis staff has overseen the work of outside consultants but has seldom worked with the consultants in gathering and analyzing data. The program review committee believes that by working directly with the consultant firms, DPUC analysts could learn from the consultants' technical knowledge of utility operations and from their knowledge of research, documentation, and data analysis techniques. **The Legislative Program Review and Investigations Committee recommends, for training purposes, that the participation of Utilities Operations and Management Analysis Division staff of the Department of Public Utility Control in audits performed by outside consultants be increased.**

Working with the consultant team may mean that the DPUC analyst cannot concurrently monitor consultant performance in conducting the audit, and another analyst may have to be assigned that task. The extent of management audit staff work on consultant audits will be dependent on the division work schedule. However, every effort should be made to accommodate such training.

Clerical Staff

During the year when the program review committee was evaluating the Department of Public Utility Control, the management analysis division had no clerical staff assigned to it. As a result, management analysts had to rely on secretaries or word processing staff from other divisions to type division documents. Management audit documents were often given a low priority by those divisions, and it was difficult to get documents typed in a timely manner. In addition, there was no clerical assistance in organizing files or recording division data. Management analysts had to devote their time to those functions. During periods when staffing was low and the workload heavy, division staff were unable to properly maintain files and records.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control assign clerical staff to the Utilities Operations and Management Analysis Division to type documents and correspondence as required, organize and update division files, and maintain the ledger of staff hours spent on each audit.

CHAPTER III

TRUCKING REGULATION

Background

Economic regulation of the interstate trucking industry began with the federal Motor Carrier Act of 1935, which placed regulatory responsibility with the Interstate Commerce Commission (ICC). In Connecticut, regulation of trucking within the state also began in 1935 with the passage of Public Act 126.

Economic regulation was instituted in response to the instability of the trucking industry in the wake of the Great Depression of the 1930s. During this period, the number of truckers grew rapidly since cheap labor was abundant, credit to purchase a vehicle was readily available, and other economic opportunities were limited. Open competition among numerous small trucking firms eventually became destructive, resulting in price wars, frequent rate fluctuations, and motor carrier bankruptcies.

Shippers became dissatisfied with the erratic rates and unreliable service that open competition produced. In addition, the improved quality and quantity of public roads had placed trucks in competition with the railroads, a regulated industry that was experiencing financial difficulty. Shippers, carriers, and the railroads supported economic regulation as a means of stabilizing the trucking industry.

Economic regulation consists of limiting entry into the market and controlling the rates charged by for-hire carriers to prevent destructive competition. Economic regulation applies only to common carriers, who offer their services to all shippers, and contract carriers, who serve a limited number of shippers under contractual arrangements. Private carriers--those who ship their own goods--are not subject to economic regulation.

Economic regulation in Connecticut. Public Act 126 required intrastate for-hire truckers (i.e., those hauling goods between points within the state) to obtain a certificate of public convenience and necessity from the Public Utilities Commission, a predecessor agency of the Department of Public Utility Control. Interstate carriers (i.e., those hauling goods across state lines) were regulated by the Interstate Commerce Commission and thus did not have to obtain operating authority from the Public Utilities Commission. Interstate carriers operating in Connecticut were, however, required to register with the state commission to allow proper supervision of highway safety.

Public Act 126 required the Public Utilities Commission to issue a certificate to any carrier operating prior to 1935. In granting authority to new applicants, the act required the commission to consider the public need for the proposed service, the financial responsibility of the applicant, the ability of the applicant to perform the service efficiently, and the effect of the service on the condition of roads and the safety of other motorists.

Public need for service is established through a public hearing at which an applicant must present shipper-witnesses to testify about their need for the proposed service. Existing carriers may protest an application by presenting evidence that shippers' needs can be met without the issuance of an additional authority. An applicant bears the burden of proving that the proposed service is in the public interest. This process serves to limit entry into the industry, thus preventing the intense competition that economic regulation was set up to control.

Restrictions on the rates charged by for-hire carriers is the second aspect of economic regulation that limits competition. By prescribing minimum rates, the Department of Public Utility Control has precluded destructive rate competition among competing motor carriers. Carriers may set their charges below minimum levels only by specifying rates for individual commodities. All carriers must keep their rates on file at the Department of Public Utility Control, and any changes in rates are subject to department approval. In reviewing proposed charges, DPUC must assure that the rates are just, reasonable, and reasonably compensatory.

Identification stamps. In addition to economic regulation of intrastate trucking, the Department of Public Utility Control monitors trucking activity by requiring each for-hire truck operating in the state (both intrastate and interstate) to have an identification stamp. To obtain stamps, carriers must provide proof that they have adequate liability insurance. Carriers based outside the state must also designate a Connecticut agent for service process (i.e., a person upon whom legal documents may be served). Stamps are renewed annually at a cost of \$10 each.

Transportation Division operations. The Transportation Division of the Department of Public Utility Control is responsible for the economic regulation of intrastate trucking and the issuance of identification stamps. There are 10 positions in the division, which had a budget of \$221,583 for state FY 84. In addition, two positions in the Rates Division of DPUC are involved solely in truck regulation, and the Consumer Assistance and Information Division fields questions and complaints from consumers concerning regulated carriers.

The total cost of the department's truck regulation activities for state FY 84 (excluding overhead items such as rent and utilities) was estimated to be \$376,000. In state FY 84, application fees and the sale of identification stamps generated \$2.9 million, which was transferred to the General Fund. The operations of the Transportation Division are funded by the department's assessment of public service companies.

As of June 30, 1984, there were 483 active certificates held by intrastate common carriers and 54 permits for contract carriers. In addition, 10,118 interstate trucking firms were registered with the division as operating in Connecticut.

Findings and Recommendations

Economic Regulation

The first question the Legislative Program Review and Investigations Committee addressed with respect to trucking regulation was whether economic regulation by the state should continue. Arizona, Florida, Maine, and Wisconsin have eliminated economic regulation of intrastate trucking since 1980. Delaware and New Jersey have never exercised rate or entry controls on trucking. In addition, the Federal Motor Carrier Act of 1980 has significantly decreased the level of economic regulation of interstate carriers by the Interstate Commerce Commission.

Competition. Proponents of economic regulation of intrastate trucking argue that the current system in Connecticut is achieving its original objective of promoting a stable trucking industry by preventing destructive competition. Opponents of regulation contend that the economic conditions of the Great Depression era that led to destructive competition no longer exist, and thus regulation is not needed to provide stability. The absence of destructive competition in unregulated states (Delaware and New Jersey) and in exempt commodities (agricultural products) is cited as evidence that regulation is not needed for market stability. States that have deregulated in the past several years have not experienced destructive competition among motor carriers.

Rates. Economists argue that regulation results in higher rates than would occur under a free market system. By limiting the number of carriers, regulation protects truckers from competition and thus carriers have little or no incentive to operate efficiently. In some instances, the regulatory system itself creates inefficiency by unduly limiting the commodities a carrier may haul or restricting operations to specific routes or a small geographic area. When such inefficiencies exist, the shipping public pays the increased cost through higher rates.

The deregulation of rates for poultry and frozen fruits and vegetables during the 1950s is often cited as evidence of the higher rates that regulation engenders. A U.S. Department of Agriculture study found that rates dropped 33 percent for poultry and 19 percent for frozen fruits and vegetables⁵ after these commodities were exempted from rate regulation.

⁵ Paul W. MacAvoy and John W. Snow, ed., Regulation of Entry and Pricing in Truck Transportation, (Washington D.C.: American Enterprise Institute, 1977), pp. 8-9.

Opponents of regulation argue that opening up the trucking industry to free market competition would result in more efficient operations and thus lower rates to shippers. However, shippers would not uniformly enjoy lower rates. Large, high volume shippers may receive lower rates, but small or rural shippers may face higher rates. Surveys conducted in deregulated states have shown that shippers have generally had favorable experiences with rates.⁶

Fifty-nine percent of the Florida shippers surveyed reported decreased rates while none had seen an increase.⁷ In Arizona, 30 percent of the shippers reported lower rates and 12 percent said rates increased, even though a new motor carrier tax was implemented at the same time economic regulation was eliminated.⁸ Twenty-two percent of the Wisconsin shippers had lower rates while 19 percent reported that rates went up.⁹ Forty-nine percent of the large firms in Wisconsin reported decreased rates as compared to 16 percent of the small businesses reporting lower rates.¹⁰

Economists also point to the value attached to operating rights as evidence that monopoly profits exist in the trucking industry. They view the value of operating rights as a capitalization of excess profits that the holder expects to earn in the future. A review of certificate sales approved by the Department of Public Utility Control during 1983 indicated that a statewide

⁶ The methodology used in each of the state surveys is described in Appendix D. Survey percentages cited in this report do not total 100 percent because some respondents either had no opinion or saw no change after deregulation.

⁷ Richard Beilock and James Freeman, "Motor Carrier Deregulation in Florida," Growth and Change, Vol. 14, No. 2, April 1983, p. 32.

⁸ Arizona Department of Transportation, Transportation Planning Division, Attitudes of Arizona Shippers and Motor Carriers Regarding Deregulation and the Motor Carrier Tax: One Year Later, October 1983, Appendix B.

⁹ Wisconsin Office of the Commissioner of Transportation, Deregulation of Wisconsin Motor Carriers, July 1983, p. 54.

¹⁰ Ibid, p. 54.

authority to haul household goods is generally worth \$5,000 while a statewide general commodities certificate is worth \$15,000. Opponents of regulation contend that certificates have a substantial value because carriers are able to earn higher than competitive returns in the regulated market. Advocates of regulation point out that certificate values represent goodwill (i.e., the favor an established business receives from customers) as well as the value of purchasing a going concern.

Price discrimination. Proponents of regulation fear that carriers will charge shippers discriminatory rates if economic regulation is eliminated. Connecticut statutes currently require carriers to charge all shippers the same rates--those approved by the Department of Public Utility Control. Carriers are thus prohibited from charging discount rates or surcharges to selected shippers.

Opponents of regulation argue that the price discrimination that proponents fear is actually a desirable practice from an economic point of view. They contend that rates should be based on the costs incurred by the carrier in providing service. Uniform rates reflect average operating costs. Rates based upon more specific costs should be allowed in order to minimize the misallocation of economic resources that occurs when prices do not accurately reflect costs. If rates are not cost-based, subsidization of some shippers by others occurs, and this is an undesirable situation economically.

If carriers were allowed to charge a variety of rates, shippers could be offered a menu of price/quality options. For example, a shipment that was not urgent might be hauled at a reduced "standby" rate when the carrier had capacity available. Similarly, household goods movers might charge lower rates in the beginning of the month when business is slow to smooth out their workload.

Availability of service. Advocates of regulation also fear that without regulation carriers will be allowed to refuse to serve shippers. Surveys conducted in Wisconsin, however, found that only 2 percent of the shippers experienced a decrease in the availability of service while 17 percent felt availability had increased.¹¹ In Florida, 8 percent of survey respondents reported cutbacks in service.¹² Twenty-four percent of the Arizona ship-

11 Ibid, p. 52.

12 Beilock and Freeman, "Motor Carrier Deregulation in Florida," p. 35.

pers surveyed said that existing carriers had cut back on service.¹³ Unfortunately, none of the research conducted thus far has identified how many, if any, shippers were left totally without service because of economic deregulation. Opponents of regulation believe that competition will result in service being provided to whoever desires it, providing the shipper pays the price that the market sets.

Service to small communities. A closely related concern is that economic deregulation will result in elimination of service to small or rural shippers. It is argued that the current system of uniform rates allows carriers to serve small communities through cross-subsidization of these routes by more profitable traffic. Study has shown, however, that service to small and rural communities can be profitable.¹⁴

The applicability of this argument to Connecticut is limited. Since Connecticut is small geographically and its highway system is well developed, service can be provided to most communities with relative ease. In addition, the current ability of the Department of Public Utility Control to assure service to small or rural communities is limited. The department does not have the authority to mandate service to any community; DPUC can only approve or deny applications submitted by carriers.

Carriers are currently allowed to abandon service if they can show DPUC that circumstances beyond their control require cessation of service. Since most certificates are general in the authority granted (e.g., the trucker is allowed to haul general commodities to all points in Connecticut) carriers can abandon a particular route without seeking DPUC approval.

Information from deregulated states also suggests that service to small and rural communities has not been seriously affected, although rural and small shippers have not generally fared as well under deregulation as large and urban shippers. In the survey of Florida shippers, 95 percent of rural shippers reported that service had improved or remained stable after deregulation;

¹³ Arizona Department of Transportation, Deregulation, Appendix B.

¹⁴ R. L. Banks and Associates, Inc., "Service to Small Communities," in Regulation of Truck Transportation, MacAvoy and Snow ed., p. 152.

65 percent of rural shippers preferred deregulation, compared with no rural shippers favoring a return to regulation.¹⁵

In Arizona, the opinions of rural shippers varied significantly from those of urban shippers, although rural shippers still preferred deregulation. Urban shippers favored deregulation by a 48 to 7 percent margin while rural shippers supported it 34 to 25 percent.¹⁶ Three percent of the rural shippers surveyed in Wisconsin reported decreased availability of service while 17 percent said availability had increased.¹⁷

Entry restrictions. Economic regulation limits entry into the trucking industry to prevent destructive competition. It is important to understand that entry limitations not only require that applicants meet certain standards (e.g., financial responsibility, ability to provide service), but that the market to be entered must be shown to need the proposed new service. Thus a well qualified applicant can be denied a certificate because the market he/she wants to serve already has a sufficient number of carriers. Opponents of regulation argue that entry barriers are inequitable to potential carriers who are excluded simply because they would compete with existing carriers.

Supporters of economic regulation contend that "fly-by-night" operators have been kept out of trucking by the entry restrictions, thereby protecting the shipping public. Again, opponents point to the unregulated trucking markets for evidence that regulation is not needed to achieve this objective. A U.S. Department of Transportation survey of unregulated carriers in New Jersey found that they had been in operation for an average of 18 years.¹⁸ Studies of exempt livestock truckers showed that the

¹⁵ Beilock and Freeman, "Motor Carrier Deregulation in Florida," pp. 32, 37.

¹⁶ Arizona Department of Transportation, Deregulation, p. 12.

¹⁷ Wisconsin Commissioner of Transportation, Deregulation, p. 73.

¹⁸ U.S. Department of Transportation, Examination of the Unregulated Trucking Experience in New Jersey (Washington D.C.: Office of University Research, 1979), p. E-3.

average firm had been in business for over 18 years.¹⁹ Opponents contend that the fitness of applicants can be evaluated by the state without economic regulation, as currently occurs in many other state-regulated businesses and professions.

Access to rate information. The easy accessibility of rate information is an advantage of the current system that would be lost if economic regulation was eliminated. Opponents of regulation argue that exchange of price information is a function that can and should be handled in the marketplace. A survey taken in Wisconsin after deregulation found that 5 percent of the shippers reported that rate information was harder or more expensive to obtain while 16 percent said it was easier or less expensive.²⁰

Need for further study. The Legislative Program Review and Investigations Committee considered the arguments for and against economic regulation as described above. Several concerns were raised by the committee during discussion of this issue. Some committee members felt that additional input was needed from motor carriers and shippers in the state since only two persons from the public gave testimony on truck regulation at a committee hearing on staff recommendations. The impact of economic deregulation on small and rural communities in Connecticut also concerned committee members. Although experience in other states has been generally favorable, some committee members felt that economic deregulation could cause higher rates or less service to some communities in Connecticut.

In light of these concerns, the Legislative Program Review and Investigations Committee requested the Department of Public Utility Control to study the potential impacts of economic deregulation in Connecticut. Specifically, the committee asked the department to assess the impact that economic deregulation would have on Connecticut consumers, shippers, and carriers as well as the administrative costs incurred by the state in regulating trucking. This study is to be completed by December 1, 1984, at which time the program review committee will reconsider the economic regulation issue.

¹⁹ L. A. Hoffman, P. P. Boles, and T. Q. Hutchinson, Livestock Trucking Services: Quality, Adequacy and Shipment Patterns (U.S. Department of Agriculture, Economic Research Service, Agricultural Economic Report 312, October 1975) cited in Regulation of Truck Transportation, MacAvoy and Snow, ed., p. 38.

²⁰ Wisconsin Commissioner of Transportation, Deregulation, p. 55.

Funding of Truck Regulation

The budget of the Department of Public Utility Control including the Transportation Division is funded by assessments levied against public service companies in accordance with C.G.S. Sec. 16-49. Public service companies are defined in C.G.S. Sec. 16-1 as including "...street railway, electric, gas, telephone, pipeline, sewage, water and community antenna television companies...." Since trucking companies do not fall under this definition, they do not contribute to the assessment that funds truck regulation.

Truck regulation does, however, generate significant revenue. In state FY 83, \$2.5 million was collected by DPUC in trucking application and identification stamp fees. This revenue has been deposited in the General Fund in past fiscal years, but Public Act 84-254, passed during the 1984 legislative session, provides that these fees will be committed to the dedicated transportation fund beginning in state FY 86.

Since assessment of electric, gas, and other utilities for the cost of truck regulation is inequitable, **the Legislative Program Review and Investigations Committee recommends that funding of truck regulation by public service companies be discontinued, and that the money for administering this function be taken out of the fees collected for identification stamps.**

Issuing Identification Stamps

The Transportation Division issues over 250,000 identification stamps to approximately 10,000 trucking firms every year. Before issuing the stamps, DPUC personnel must verify that each carrier has current liability insurance. The division maintains a mailing list of trucking firms on a computer, but otherwise the stamp issuance function is manual.

The Department of Public Utility Control purchased data processing equipment in state fiscal years 1983 and 1984 that is capable of handling the automation of the stamp issuance function. Additional equipment worth approximately \$15,000 would be required to meet the needs of the Transportation Division. Initial data entry would require from one-half to one person-year, depending on the amount of data to be entered on each carrier's file. Programming needs could be met with existing DPUC personnel.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control automate the issuance of identification stamps. Automation would increase employee productivity and allow DPUC to devote increased resources to neglected areas such as correspondence backlogs and enforcement activities.

Enforcement Activities

In 1979, DPUC personnel devoted to transportation enforcement were transferred out of the department when responsibility for the regulation of buses, taxis, and livery vehicles was moved to the Department of Transportation. While the state police truck squads check for identification stamps on the road, the Department of Revenue Services is now responsible for pursuing other DPUC enforcement matters (e.g., reports of persons operating without proper authority).

The Department of Public Utility Control, however, still has the power to revoke or suspend a carrier's authority for failure to adhere to statutes or department regulations. To suspend or revoke the authority, DPUC must first issue a citation to the carrier for a violation and then hold a hearing to determine if suspension or revocation of the carrier's operating authority is warranted.

Program review committee staff reviewed current insurance filings for the 542 intrastate carriers and found that of the 12 carriers with cancelled insurance, 7 had their insurance terminated over 6 months ago. None of these carriers had yet been issued a citation or had their operating authority suspended or revoked. One carrier whose insurance was cancelled in November 1982 was not issued a citation until June 1984. A review of the four revocations for insurance cancellation during 1982 and 1983 indicated that three carriers requested the revocation since they were no longer operating; the other carrier's certificate was revoked one year after insurance was cancelled.

The Department of Public Utility Control has also failed to take prompt enforcement action against carriers who fail to renew their identification stamps. Since the stamp renewal system is not automated, a manual review of files is required to identify carriers who have not renewed their stamps. DPUC staff reported in April 1984 that a review of records to identify intrastate carriers who failed to obtain identification stamps for 1983 had not yet been conducted due to staffing limitations. However, in June 1984 the department reported that approximately 1,500 interstate carriers were having their registrations revoked for failure to purchase stamps for three consecutive years.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control increase its enforcement efforts (i.e., suspension and revocation activities) to ensure that prompt action is taken against carriers without identification stamps or proper insurance. The automation of the stamp issuance function previously recommended will enhance enforcement efforts by quickly identifying carriers without valid

insurance or current stamps. Printouts of carriers whose authority has been revoked or suspended could be forwarded to state police truck squads to promote on-the-road enforcement.

The Department of Public Utility Control also lacks sanctions (short of revocation or suspension) to encourage timely renewal of stamps. Carriers are allowed to purchase their stamps after the February 1 renewal deadline without penalty. DPUC records did not allow an accurate calculation of the number of stamp applications received after the renewal deadline, but over 25,000 stamps were issued in the first seven weeks after the deadline in 1984. While not all of these stamps were requested after the deadline, the volume of late sales indicates that many firms are not obtaining stamps by the deadline.

In order to encourage timely renewals and thereby improve cash flow for the state, **the Legislative Program Review and Investigations Committee recommends that a statutory late fee be instituted for renewal stamps purchased after the February 1 deadline.** Extra stamps purchased during the year for additional vehicles should not be subject to the late fee since these are not renewal stamps.

Interstate Commerce Commission Supplemental Authorities

Interstate for-hire carriers must obtain operating authority from the Interstate Commerce Commission. If an ICC carrier wishes to expand operations by carrying additional commodities or adding routes, he/she must apply to ICC for supplemental authority for the new operations. C.G.S. Sec. 16-298(b) requires carriers to register their ICC authorities with the Department of Public Utility Control. Application fees are \$25 for the initial registration of authority and \$10 for registration of any supplemental authority granted by ICC after the initial registration.

Since ICC carriers are not economically regulated by DPUC, the registration of these carriers' supplemental authorities does not serve a useful purpose. Supplemental authority would not affect a carrier's insurance filing and any additional vehicles that might be needed for expanded Connecticut operations would have to be issued identification stamps in the normal manner. **Therefore, the Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 16-298(b) be amended to delete the requirement that supplemental authorities from the Interstate Commerce Commission be filed with the Department of Public Utility Control.** Elimination of supplemental authority filings will relieve some of the administrative burdens facing DPUC and ICC carriers. Revenue from supplemental authority filings totaled \$5,540 in state FY 84.

Refund Policies

The Department of Public Utility Control allows refunds of fees paid by truckers in a number of situations. During a review of a sample of 40 refunds issued during the first nine months of state FY 84, program review committee staff identified two questionable situations where DPUC was issuing refunds. In eight cases, DPUC refunded application fees to truckers who were unable to comply with department requirements (for example, failing to provide acceptable proof of insurance). These refunds were made even though DPUC had already processed the applications. Since application fees are intended to cover processing costs, **the Legislative Program Review and Investigations Committee recommends that C.G.S. Sections 16-298(b) and 16-299(a) be amended to specify that application fees are nonrefundable.**

In three other cases reviewed, DPUC issued refunds when unused identification stamps were returned six or more months after purchase. While refunds for overorders of stamps are reasonable, a time limit should be specified to prevent carriers from retaining extra stamps indefinitely. Therefore, **the Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control issue refunds for unused stamps only if the request for a refund is received within sixty days of the issuance of the stamps or the effective date of the stamps (February 1), whichever is later.** DPUC refund policies should be communicated to truckers through the application and stamp renewal forms to ensure that they are notified of the new refund procedures.

Regulations

DPUC trucking regulations contain provisions that are either unnecessarily burdensome or no longer serve a useful purpose. Carriers are required by regulation to file copies of leases with the department if leased vehicles are used in the state. According to DPUC staff, the only use that has been made of leases in the past was to verify that the lessor was licensed by the Department of Motor Vehicles. DPUC staff also report, however, that this leasing information is no longer used by the Department of Motor Vehicles. Since leasing information is not being used, **the Legislative Program Review and Investigations Committee recommends that the regulation requiring the filing of leases with the Department of Public Utility Control be deleted.**

The Department of Public Utility Control regulations could also be revised to make the application process for certificates less burdensome. Applicants for intrastate authority are currently required by regulation to submit three character reference letters from residents of their town as well as a statement from the chief of police regarding the presence or absence of a police

record. Corporate applicants are required to submit three reference letters and a chief of police statement for each officer of the corporation and each person owning 10 percent or more of the corporation's outstanding equity.

In observing hearings on trucking applications, program review committee staff encountered instances when the town of residence of a reference and/or the proper law enforcement jurisdiction (e.g., sheriff, county police, etc.) was made an issue. To simplify the application process, the **Legislative Program Review and Investigations Committee** recommends that the regulation requiring character reference letters be eliminated since the reliability and value of such letters in the application process is questionable. Further, the committee recommends that information about an applicant's police record be requested directly on the application form, which is a sworn statement from the applicant.

Finally, state regulations do not contain any requirement that out-of-state carriers designate a Connecticut agent for service process (i.e., a person upon whom legal documents may be served). Designation of a service process agent in Connecticut is required in practice, however, for out-of-state carriers. Since designation of such an agent is a worthwhile practice, the **Legislative Program Review and Investigations Committee** recommends that the **Department of Public Utility Control** place in regulation a requirement that out-of-state carriers designate a service process agent in Connecticut.

Motor Carrier Annual Reports

The Department of Public Utility Control requests annual reports from intrastate motor carriers with revenues of \$1 million or more. There are currently 84 carriers submitting annual reports to DPUC. These annual financial reports are prepared for the Interstate Commerce Commission, and DPUC requests a copy from the carriers each year. Annual reports from motor carriers are not required by state statutes or regulations. DPUC personnel indicated during interviews with committee staff that these annual reports are not used. The **Legislative Program Review and Investigations Committee** recommends that the **Department of Public Utility Control** discontinue requests for annual reports from motor carriers.

CHAPTER IV

DEPARTMENTAL PROCESSES AND PROCEDURES

100 Percent Funding

The Department of Public Utility Control's budget for state fiscal year 1984 was \$3.7 million, all of which was paid for by Connecticut public service companies. Partial funding of the department by such companies began in 1953 when 45 percent of the department's expenses were paid by the companies. This assessment was raised to 50 percent in 1959, 56 percent in 1972, and 70 percent in 1975. One hundred percent funding was initially approved in 1981 for a three year period; it was subsequently extended through June 30, 1987.

The program review committee believes that requiring public service companies to pay the costs of the governmental body responsible for regulating them is appropriate. Several other industries (for example, banking and insurance) and regulated professions (such as physicians and accountants) contribute the full cost of their state regulation through assessments or fees. This funding requirement is also in line with actions being taken by an increasing number of other states that are charging utilities for 100 percent of their regulatory costs.

The Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 16-49 be amended to permanently extend the requirement that public service companies pay all expenses of the Department of Public Utility Control and the Division of Consumer Counsel. However, it should be noted that the committee does not believe transportation-related functions of the department should be funded by public service companies. (See previous recommendation on page 36.)

Statutory Compliance

Under state law, the Department of Public Utility Control is required to investigate certain pricing principles and rate structures for electric and gas companies. It must determine whether existing or potential rate structures unduly burden persons of poverty status and what adjustments are necessary or desirable. The department was to issue findings and orders on these matters by June 1977 and follow-up on new developments at least every two years thereafter.

The department has addressed some of these issues, specifically pricing principles and rate structures for electric and gas companies in a case completed in 1976 and again for electric companies in a decision issued in 1979. However, the department

has not directly addressed the impact of rates on low income consumers. To ensure full compliance with this statute, a plan for carrying out its requirements should be developed by the department. The plan should include a specific date in the near future for the start of proceedings on this matter.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control submit a plan to the legislature's Energy and Public Utilities Committee specifying how and when the department will carry out the investigations and public hearings mandated by C.G.S. Sec. 16-19e(b).

Executive Sessions

The Connecticut Freedom of Information Act (C.G.S. Ch. 3) requires all public agencies to hold open meetings, except under certain limited circumstances when executive sessions are allowed. While the Department of Public Utility Control does not appear to have used such sessions without justification, the commissioners do not always follow proper voting procedures for entering into such sessions. In addition, minutes from executive sessions, which are also required by statute, are often not prepared.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control comply with all statutory requirements concerning the conduct of and the preparation of minutes for agency meetings.

Statutory Deletions

During the committee's performance audit of the department, several references to obsolete functions were found in the statutes governing the department. The committee believes that at a minimum all references in Chapters 277, 281, and 282 of the state statutes to street railway cars should be deleted because such vehicles have not operated in the state for many years. The department should also review other portions of its statutory authority to determine whether other sections need to be revised. At this time, **the Legislative Program Review and Investigations Committee recommends that the sections of the state statutes concerning Department of Public Utility Control authority over street railway cars be deleted.**

Data Processing

The Department of Public Utility Control's use of data processing has been limited for the past several years due to budget and staffing limitations. In June 1983 the department purchased a word and data processing system, primarily to establish a case tracking system and to meet word processing needs. During state FY 84 equipment was purchased to expand this system using funds

transferred from other budget categories. Table IV-1 depicts the data processing equipment purchased by DPUC during the past two years.

Table IV-1. Data Processing Equipment Purchases.

<u>Type of Equipment</u>	<u>State FY 83</u>	<u>State FY 84</u>	<u>Total</u>	<u>Percent Increase</u>
Central Processing Units	1	1	2	100%
Terminals	4	26	30	650%
Printers	2	9	11	450%
Value	\$76,000	\$222,000	\$298,000	292%

As illustrated by the table, the state FY 84 purchase represented a tremendous increase in the department's data processing hardware. Documentation supporting this acquisition indicated that planning was limited, in part due to the time constraints imposed by the state fiscal year. A list of potential data processing applications was solicited from DPUC staff before the equipment was selected, but the feasibility of these applications was not examined, and no prioritization of needs was attempted.

In conjunction with the request to purchase data processing equipment, the department sought permission to hire a data processing consultant. The consultant is to define current and future information needs, identify specific data processing applications that will satisfy the defined information needs, and prepare a plan for implementing the automated system. While the objectives of this study are commendable, these steps should have preceded any decision to purchase data processing equipment.

A well-defined set of data processing requirements is necessary before equipment can be selected to meet agency needs. Accordingly, **the Legislative Program Review and Investigations Committee recommends a moratorium on the acquisition of data processing equipment by the Department of Public Utility Control until the consultant it plans to hire evaluates the feasibility and cost-effectiveness of potential data processing applications.**

Presentation of Information

The final decision on any matter coming before the Department of Public Utility Control must be decided by a majority of the commissioners. Panels of three commissioners are assigned to most cases, but if they are unable to unanimously agree on a ruling, then the other two commissioners are brought into the process. In either event, filed material, public hearing testimony, and written briefs are considered by the commissioners.

During deliberations prior to voting on the final decision, the commissioners usually have a draft decision before them. It is prepared by agency staff to outline the issues in the case and present a tentative conclusion that one or more of the commissioners have requested be written up.

In all but a few major proceedings per year, decisions on cases are discussed and voted on by the panels of commissioners at "special meetings" held weekly at the agency. Several cases are scheduled for one time so they can be taken up one after another; discussion on each case ranges from 30 seconds to 30 minutes.

The practice of grouping a number of cases together is an efficient use of time. However, the specific names and docket numbers of cases are not always mentioned by the commissioners leading the discussion. This can make it difficult for an observer who is interested in a particular case to determine the outcome of that case. **The Legislative Program Review and Investigations Committee recommends that during Department of Public Utility Control meetings, the commissioners clearly state which case they are discussing and/or voting on.**

Written Procedures

If a customer of a public service company feels he/she has been improperly treated by the company, then a hearing can be requested from the Department of Public Utility Control. The use of attorneys by the customer and the company is optional.

In observing a variety of contested cases, program review committee staff found that petitioners who were unfamiliar with departmental hearing procedures were at a disadvantage during the proceedings. While some hearing examiners took time to explain DPUC procedures and requirements either before or during the course of the hearing, in other cases customers who seemed to be confused by the process received no assistance from anyone at the hearing representing the department.

Because the larger utility companies often have an attorney presenting their side of a case, an uninitiated customer is at an additional disadvantage if the attorney makes motions and objec-

tions that a layperson does not understand. Similar treatment is also received on occasion by for-hire truckers and representatives of small water companies who are appearing before the department without counsel.

In an effort to reduce the uncertainty of a hearing mechanism that exists to assist utility customers, the department should make a greater effort to inform people appearing before the agency of their rights and responsibilities. Summaries, written in plain language, should describe the manner in which hearings are conducted, including the rights of both sides to present evidence and ask questions. This material should be distributed automatically to anyone filing a request involving a hearing. Information about the existence of the Division of Consumer Counsel as well as a statement about the types of assistance it may be able to provide should also be given to petitioning customers of public service companies.

The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control make available a written summary of the rights and responsibilities of customers appealing the actions of public service companies or intervening in rate cases. Specific information about the manner in which departmental hearings are conducted should be given to anyone appearing before the department.

Decision Index

At the present time there is no central location in the Department of Public Utility Control where a person can quickly find out whether any cases addressing a particular issue have ever been considered and, if so, which cases. Creation of such an index would be of use to departmental staff as well as the public service companies and their customers.

The Legislative Program Review and Investigations Committee recommends that an index of Department of Public Utility Control decisions be created identifying the principal issues and orders in completed cases.

Hearing Examiners

Currently staff from different divisions within the Department of Public Utility Control may be assigned to serve as hearing examiners in cases where the commissioners are not themselves presiding. This had led to situations where a public service company will face a departmental employee as the deliberator of facts in a case one day and as the enforcer of agency orders another day.

With the creation of the new adjudication unit to handle hearings not conducted by a commissioner, the department should not need many other staff to serve as hearing examiners. **The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control reduce the use of staff outside of the adjudication unit as hearing examiners.**

Staff Training and Communication

Opportunities for job-related training at the Department of Public Utility Control have been limited in the past. This has resulted partially from the lack of relevant training programs. In other instances, however, staff could not be allowed to attend courses when major rate cases were pending because there was no backup staff to carry out their duties in their absence.

The department has received authorization for 19 additional positions for state FY 85. As the size of the staff increases, more efforts should be made to use outside training resources and, if appropriate, expend funds to develop programs for use solely within the department. **The Legislative Program Review and Investigations Committee recommends that the Department of Public Utility Control develop expanded opportunities for job-related training for its employees.**

Communication between staff within the department also needs improvement. In conversations with agency staff in various divisions, it was apparent that many employees below the division director level did not know what projects or cases staff in other divisions were working on. In an agency the size of DPUC, knowledge about the work of the whole agency would enhance the performance of individual components. Accordingly, **the Legislative Program Review and Investigations Committee recommends that communication between the various divisions within the Department of Public Utility Control be improved.**

Consumer Assistance

The Consumer Assistance and Information Division of DPUC responds to nearly 20,000 letters and telephone calls annually from public service company customers. Detailed queries about DPUC operations from regulatory agencies in other states are also referred to the division for response. It would seem more appropriate that this type of information request be placed under the jurisdiction of the staff person responsible for the agency's public information activities.

The Legislative Program Review and Investigations Committee recommends that questions from regulatory agencies in other states be answered by the person in the Department of Public Utility Control responsible for public information activities.

The Consumer Assistance and Information Division collects a lot of information about the inquiries it receives from customers of regulated companies. However, it does not have information on how many of the problems it deals with are resolved to the satisfaction of the customers. Some data are available on individual calls or letters, but the information is not always complete, and there are no comprehensive data on the resolution of inquiries by type of complaint or industry.

More specific information in this area would help evaluate division performance and determine future staffing needs. In addition, the department might be able to determine which problem areas require greater agency attention. **The Legislative Program Review and Investigations Committee recommends that the Consumer Assistance and Information Division of the Department of Public Utility Control maintain better records on the outcomes of calls and letters received in order to measure customer satisfaction and evaluate division performance.**

Employment Restrictions

In 1980, the Connecticut General Assembly passed Public Act 80-462 prohibiting Department of Public Utility Control commissioners from accepting employment with a public service company for one year after termination as commissioner. In addition, a commissioner who is also an attorney is restricted from appearing before or participating in any matter before the authority for a period of one year. All of these restraints are in addition to the rules of the Code of Ethics for Public Officials.

Underlying the prohibition enacted in 1980 was the concern that a "revolving door" situation would develop, resulting in potential conflict of interest. Effective January 7, 1987, other agency heads in Connecticut will be subject to similar restraints on post-public service employment. In addition, legislators are restricted from becoming lobbyists during the term for which they are elected.

The program review committee believes an additional restriction on employment is needed. **The Legislative Program Review and Investigations Committee recommends that C.G.S. Sec. 16-2(k) be amended to prohibit Department of Public Utility Control commissioners from accepting employment by utility associations or trade groups active in lobbying on matters related to governmental regulation of utilities for a period of one year following termination as a commissioner.**

APPENDICES

APPENDIX A

PERFORMANCE AUDIT METHODOLOGY

As part of the evaluation of the Department of Public Utility Control, program review committee staff interviewed each of the five commissioners separately, several individuals in each of the department's divisions, and the state's consumer counsel. Representatives of the electric, gas, telephone, and water industries, the Connecticut Business and Industry Association, the Connecticut Industrial Energy Consumers, the Connecticut Citizens Action Group, and the Connecticut Motor Transport Association were also interviewed.

Questionnaires were used by the committee to obtain information about the specific tasks performed by staff within different departmental divisions, the amount of interaction between divisions, and the amount of training staff receives. A detailed survey was also sent to the state utility regulatory bodies in the other 49 states. Telephone contact was made with 7 of the 34 states that responded to the survey in order to obtain more specific information about the management audit process and the use of agency staff to put on a rate case.

Program review committee staff reviewed a wide variety of files at the department. In the area of trucking regulation, staff examined motor carrier files, which include information on insurance coverage, as well as financial records filed by trucking firms and the transcripts of transportation-related hearings conducted by DPUC.

Within the management analysis division, committee staff looked at all of the audits conducted under the direction of the department since the beginning of that function in 1976. In addition, the working papers for audits conducted by outside consultants and the files for new and follow-up audits conducted by department staff were reviewed.

The descriptive records of telephone inquiries received by the Consumer Assistance and Information Division during 1983 were examined in detail by committee staff. Also reviewed were materials, including minutes, for three years of regular and special meetings conducted by the commissioners.

Program review committee staff also sat in on a number of official meetings and hearings conducted by Department of Public Utility Control staff and commissioners. In addition to observing all phases of the 1983 Connecticut Light and Power Company rate request case, committee staff attended portions of rate case

proceedings involving water companies, cable companies, and the United Illuminating Company. In the transportation area, staff observed hearings on applications for certificates of operation, citation hearings, and meetings involving the sale and transfer of certificates.

During the course of the performance audit, committee staff regularly attended the weekly Special Meetings of the commissioners at which formal action on specific cases is taken. Committee staff also attended informal meetings involving department and public service company representatives where service problems were discussed in an effort to resolve matters without the need for a formal hearing. Formal hearings involving customer complaints against telephone and electric companies were also observed.

Public hearings were conducted by the program review committee at two different stages of the evaluation process. At a series of hearings held in late November and early December of 1983 the committee was interested in obtaining comments on the operation of the Department of Public Utility Control, especially the manner in which different industries are regulated and the ability of the department to carry out its mandated functions. A hearing held in June 1984 was scheduled by the committee to give the department, regulated companies, and the public an opportunity to comment on proposed recommendations developed by committee staff.

APPENDIX B

HISTORY OF THE DEPARTMENT OF PUBLIC UTILITY CONTROL

The first state body established to provide comprehensive regulation and supervision of public service companies in Connecticut was the Public Utilities Commission. Created in 1911, the commission had three members appointed by the governor with the consent of the General Assembly. Members had to be electors of the state, and they could not simultaneously be employed by a public service company.

The public service companies under the jurisdiction of the commission were common carriers; railroads; and electric, express, gas, street railway, telephone, telegraph, and water companies. Commission powers and duties were primarily concerned with safety and the price of service. The commissioners had the right to receive complaints, hold hearings, issue orders enforceable through the judicial system, and investigate accidents. The Public Utilities Commission set standards of efficiency and accuracy for the equipment and service to be provided by public service companies, and it looked into complaints that rates were unreasonable or that service was inadequate.

In 1935, authority for the economic regulation of motor common carriers was given to the commission. That same year the statutes governing the Public Utilities Commission were revised to authorize it to establish a process by which public service companies could file proposed amendments to rate schedules. If the commission found the proposal unreasonable or inadequate, it could prescribe a rate and service level it determined acceptable.

The effective date of the new charges could be suspended indefinitely while the commission considered the rate amendment. In 1947, the suspension period was limited to 120 days; in 1969, it was increased to 150 days. Legislation adopted in 1984 allows extension of the 150-day rate case decision deadline to 180 days provided all parties and intervenors are notified of the extension before the end of the 150-day period.

The process by which commission members were selected was changed in 1959 to appointment by the governor with the advice and consent of either house of the General Assembly. Political affiliation restrictions were also instituted, prohibiting more than two commissioners from being members of the same political party. In 1974, Public Act 74-216 expanded commission membership to five, no more than three of whom could be from the same political party. This same legislation also decreased the term of office for commissioners from six years to five years.

The Public Utilities Commission was abolished in 1975 when Public Act 75-486 created a new Public Utilities Control Authority, also composed of five commissioners. Appointed by the governor, the commissioners had to be confirmed by both chambers of the General Assembly. At least three of the commissioners were required to have training or experience in two of the following fields: economics, engineering, law, accounting, or finance.

All five commissionerships were made full-time positions and required public disclosure of assets, liabilities, and income. Conflict of interest prohibitions were also instituted for commissioners and agency staff. In addition, staff members were required to have expertise in the fields of public utility engineering and accounting, finance, economics, computers, and rate design.

Public Act 75-486 also expanded the powers and duties of the regulatory body. The Public Utilities Control Authority was now required to examine and evaluate transfers of existing public service company assets and franchises, expansion of plant and equipment, and the level and structure of rates. The authority was also required to hold hearings on new pricing principles and rate structures for electric and gas companies, paying particular attention to any possible undue burdening of the indigent or discrimination against any class of rate payers.

The act further provided for the establishment of management audit teams and procedures for the performance of such audits. Categories of public service companies to be audited and the frequency of audits were specified in the act.

As part of the major executive branch reorganization act adopted by the legislature in 1977 (Public Act 77-614), the Public Utilities Control Authority was placed within the newly created Department of Business Regulation as a Division of Public Utility Control. When that change took effect on January 1, 1979, the five existing commissioners were reappointed, although their terms of office were revised to provide for staggered terms, which would eventually run four years in length. The business regulation department was abolished in 1980, and the regulation of public service companies became the responsibility of a new Department of Public Utility Control. The Public Utilities Control Authority was designated as the head of the department.

Effective July 1, 1984, several major changes were made in the Department of Public Utility Control as a result of the passage of Public Act 84-342. An executive director position was created to plan and coordinate agency activities and organize the

department to efficiently conduct its business. The director, appointed by the chairperson of the Public Utilities Control Authority with the consent of two or more other members of the authority, serves a four-year term and is supervised by the chairperson.

Two other changes resulting from P.A. 84-342 involve establishing a Division of Adjudication and designating separate agency staff to participate in rate amendment proceedings. The adjudication unit will be responsible for advising the chairperson concerning legal issues and hearing matters pending before the department that are delegated to staff by the commissioners.

The staff involved with rate cases will review certain rate amendments and file with the commissioners proposed modifications on behalf of all customers of a particular company. The commissioners will be prohibited from communicating with this staff and must decide a case solely on the basis of the record of the proceeding. After July 1, 1986, staff participation will be required for all rate amendment proceedings involving utilities with more than 75,000 customers.

During the past 20 years the definition of public service companies regulated by the state utility regulatory body has expanded. Community antenna television companies were added in 1965. Two years later sewage plants were added, and the types of water companies regulated were specified for the first time. Motorbus companies were added to the list in 1973, but were removed in 1979 along with railroads.

Agency Funding

Beginning in 1953, a portion of the funding for the Public Utilities Commission was obtained from regulated companies. The commission was mandated to assess 45 percent of its total expenses against the public service companies in proportion to the previous year's individual company gross receipts compared with the gross receipts of all the companies. In 1959 the amount of total commission expenses paid by the companies increased to 50 percent. In 1972 the amount was raised to 56 percent, and in 1975 expenses paid by the companies increased to 70 percent.

Public Act 81-8, passed during the energy Special Session in November 1981, approved 100 percent funding of the agency by public service companies for a three-year period. In 1983 full funding was extended for an additional year, and in 1984 full funding was extended through state fiscal year 1987.

Division of Consumer Counsel

In 1974, an Office of Consumer Counsel was created within the Public Utilities Commission to represent the consumer's position in any matters considered by the commission. When the Public Utilities Control Authority was established in 1975, an independent Office of Consumer Counsel was also set up. The consumer counsel was authorized to appear in any state or federal regulatory or judicial proceeding where the interests of Connecticut consumers or the state of Connecticut with respect to public service companies might be involved. The counsel was authorized access to all Public Utilities Control Authority records and resources that any party to an authority proceeding would be allowed.

The Office of Consumer Counsel was made a division within the Department of Business Regulation when the executive branch reorganization act went into effect on January 1, 1979. When the new Department of Public Utility Control was created in 1980, the consumer counsel's office became the Division of Consumer Counsel within the department for administrative purposes only.

The Division of Consumer Counsel had a staff of five and a budget of nearly \$253,000 during state FY 84. Funding for the office is obtained from assessments of public service companies in the same manner and at the same level that DPUC receives its funding.

APPENDIX C

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Questionnaire Regarding Management Audits

N=34*

1. Please indicate your division. Accounting and Finance = 41%; Engineering = 32%; Rates = 21%; Consumer Assistance & Information = 3%; Executive Secretary = 3%

2. How often do you communicate with management audit staff on work-related issues?

<u>3%</u>	Daily	<u>12%</u>	Monthly
<u>3%</u>	Weekly	<u>32%</u>	Never
<u>50%</u>	Other (please specify) <u>Occasionally = 12%; Less than once a year = 6%; Twice a year = 6%; Quarterly = 12%; More than quarterly = 6%</u>		

If you answered "Never," go to question 5.

3. Please indicate in which of the following areas you have provided input to the management audit division:

<u>15%</u>	Selecting a utility to be the subject of a management audit
<u>32%</u>	Selecting areas within a specific utility to be reviewed by management audit staff
<u>13%</u>	Selecting data to be reviewed by management audit staff
<u>3%</u>	Selecting methods of data analysis
<u>26%</u>	Providing technical advice on utility operations/management
<u>38%</u>	Have not provided input
<u>9%</u>	Other (please specify) _____

*Unless otherwise specified.

4. Have you ever used management audit staff as a source of information in your work?

35% Yes 65% No

4a. If yes, how frequently and concerning which issues? Quarterly
(N=12) or less = 67%; During rate cases = 25%; Weekly = 8%

5. Have you ever used management audit reports as a source of information in your work?

50% Yes 50% No

5a. If yes, how frequently and concerning which issues? Seldom =
(N=17) 35%; During rate cases = 29%; When audit is issued = 18%

6. Are there any changes you would like to see in management audit reports or in the management audit process?

- No = 20%
- More participation in hearings or rate cases = 15%
- More interaction between divisions = 12%
- Improve content of audit reports = 12%
- Don't know enough about the process to answer = 12%
- More initiation of audits of water utilities = 3%
- Assign the management audit function to the Engineering Division = 3%
- Miscellaneous = 6%
- No answer = 18%

APPENDIX D

TRUCK DEREGULATION STATE SURVEY METHODOLOGIES

Arizona--Researchers in Arizona sent surveys to 823 businesses in the state one year after deregulation. Surveys were mailed to all Arizona businesses listed in the 1982 Dun & Bradstreet Million Dollar Directory of small, medium, and large business, with the exception of motels, hotels, resorts, and financial institutions. These firms were excluded because their use of motor carriers is minimal. Responses were received from 188 firms for a response rate of 25 percent. One hundred fifty-seven of the responses were usable. Each carrier member of the Arizona Motor Transport Association Inc. was mailed a survey. Eighty-seven of the 160 carriers returned the survey for a response rate of 54 percent; 73 of the carrier responses were usable.

FLORIDA--Questionnaires were mailed to a geographic sample of 320 shippers located throughout the state one year after deregulation. The sample was selected from the Dun & Bradstreet Million Dollar Directory. Businesses such as resort motels were excluded from the mailing list since they are not likely to use intrastate motor carriers extensively. Surveys were returned by 160 firms for a response rate of 50 percent; 144 of the responses were usable. Surveys were also sent to 154 for-hire carriers who were either listed in the 1979 yellow pages of major Florida cities, Florida members of the American Trucking Association in 1979, or members of the Florida Trucking Association, Inc. in 1980. All of the 98 responses received (64 percent response rate) were usable.

WISCONSIN--Surveys were mailed to a stratified sample of 12,393 firms in Wisconsin six months after deregulation. This sample represented 31 percent of the firms in the state, excluding service-oriented firms. Surveys were also sent to 1,000 randomly selected farms in the state. Four thousand forty-six surveys were returned, but 2,237 firms indicated they do not use for-hire carriers. The remaining 1,809 responses were used for analysis. Surveys were also sent to the 8,500 bus and truck companies that held intrastate authority. Responses were received from 2,145 motor carriers, but 159 reported no current activity in Wisconsin, leaving a total of 1,986 usable responses.

APPENDIX E

Legislative Changes Needed to Implement the Legislative Program Review and Investigations Committee's Recommendations

- Amend C.G.S. Sec. 16-8b to require that only electric, gas, and telephone companies with more than \$50 million in revenues in the state of Connecticut be audited at least every six years.
- Amend C.G.S. Sec. 16-8b to require the Department of Public Utility Control to choose the consultant firm that will conduct a management audit, but allow the utility being audited to offer advice to the department on the firms under consideration.
- Amend C.G.S. Sec. 16-49 to permanently extend the requirement that public service companies pay all expenses of the Department of Public Utility Control and the Division of Consumer Counsel, but discontinue this method for funding truck regulation and instead take money for that function out of the fees collected for identification stamps.
- Institute a statutory late fee for renewal identification stamps purchased after the February 1 deadline.
- Amend C.G.S. Sec. 16-298(b) to delete the requirement that supplemental authorities from the Interstate Commerce Commission be filed with the Department of Public Utility Control.
- Amend C.G.S. Sections 16-298(b) and 16-299(a) to specify that trucking application fees are nonrefundable.
- Delete all references to street railway cars.
- Amend C.G.S. Sec. 16-2(k) to prohibit Department of Public Utility Control commissioners from accepting employment by utility associations or trade groups active in lobbying on matters related to governmental regulation of utilities for a period of one year following termination as a commissioner.



