



General Assembly
February Session, 2006

Raised Bill No.
LCO No. 2689

569



Referred to Committee on

ENERGY & TECHNOLOGY

Introduced by:
(ET)

**AN ACT CONCERNING REVISIONS TO THE UTILITY STATUTES IN
RESPONSE TO THE 2005 FEDERAL ENERGY ACT.**

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

1 Section 1. Section 16-22 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 At any hearing involving a rate or the transfer of ownership of
4 assets or a franchise of a public service company, or the formation or
5 change in control of a holding company, as defined in section 16-47, as
6 amended by this act, that involves a public service company within
7 this state, the burden of proving that [said] the rate under
8 consideration is just and reasonable or that [said] the transfer of assets
9 or franchise or that the change in control or formation of a holding
10 company is just and reasonable and is in the public interest shall be on
11 the public service company or the applicant company. The provisions
12 of this section shall not apply to the regulation of a
13 telecommunications service which is a competitive service, as defined
14 in section 16-247a.

15 Sec. 2. Subsection (d) of section 16-47 of the general statutes is

16 repealed and the following is substituted in lieu thereof (*Effective*
17 *October 1, 2006*):

18 (d) The Department of Public Utility Control shall investigate and
19 hold a public hearing on the question of granting its approval with
20 respect to any application made under subsection (b) or (c) of this
21 section and thereafter may approve or disapprove any such
22 application in whole or in part and upon such terms and conditions as
23 it deems necessary or appropriate, including, but not limited to, orders
24 that effectuate a rate reduction or sharing of merger-related savings
25 between shareholders and ratepayers. In connection with its
26 investigation, the department may request the views of the gas,
27 electric, electric distribution, water, telephone or community antenna
28 television company or holding company which is the subject of the
29 application with respect to the proposed acquisition. After the filing of
30 an application satisfying the requirements of such regulations as the
31 department may adopt in accordance with the provisions of chapter
32 54, but not later than thirty business days after the filing of such
33 application, the department shall give prompt notice of the public
34 hearing to the person required to file the application and to the subject
35 company or holding company. Such hearing shall be commenced as
36 promptly as practicable after the filing of the application, but not later
37 than thirty business days after the filing, and the department shall
38 make its determination as soon as practicable, but not later than one
39 hundred twenty days after the filing of the application unless the
40 person required to file the application agrees to an extension of time.
41 The department may, in its discretion, grant the subject company or
42 holding company the opportunity to participate in the hearing by
43 presenting evidence and oral and written argument. If the department
44 fails to give notice of its determination to hold a hearing, commence
45 the hearing, or render its determination after the hearing within the
46 time limits specified in this subdivision, the proposed acquisition shall
47 be deemed approved. In each proceeding on a written application
48 submitted under [said] subsection (b) or (c) of this section, the
49 department shall, in a manner which treats all parties to the

1067

50 proceeding on an equal basis, take into consideration (1) the financial,
51 technological and managerial suitability and responsibility of the
52 applicant, (2) the ability of the gas, electric, electric distribution, water,
53 telephone or community antenna television company or holding
54 company which is the subject of the application to provide safe,
55 adequate and reliable service to the public through the company's
56 plant, equipment and manner of operation if the application were to be
57 approved, [and] (3) for an application concerning a telephone
58 company, the effect of approval on the location and accessibility of
59 management and operations and on the proportion and number of
60 state resident employees, and (4) the benefits to ratepayers and the
61 citizens of the state. Such benefits may include, but shall not be limited
62 to, rate reductions or the sharing of proposed merger savings with
63 ratepayers.

64 Sec. 3. Subsection (b) of section 16-6a of the 2006 supplement to the
65 general statutes is repealed and the following is substituted in lieu
66 thereof (*Effective October 1, 2006*):

67 (b) For any proceeding before the Federal Energy Regulatory
68 Commission, the United States Department of Energy or the United
69 States Nuclear Regulatory Commission, or appeal thereof, the
70 Attorney General, upon request of the department, may retain outside
71 legal counsel in accordance with section 3-125 and may retain nonlegal
72 consultants to assist the department staff in the proceedings to
73 participate in such proceedings on behalf of the department. All
74 reasonable and proper expenses of such outside legal counsel shall be
75 borne by the public service companies, certified telecommunications
76 providers, electric suppliers or gas registrants that are affected by the
77 decisions of such proceedings and shall be paid at such times and in
78 such manner as the department directs, provided such expenses shall
79 be apportioned in proportion to the revenues of each affected entity as
80 reported to the department for purposes of section 16-49 for the most
81 recent period, and provided further such expenses shall not exceed
82 two hundred fifty thousand dollars per proceeding, including any

83 appeals thereof, in any calendar year unless the department finds good
 84 cause for exceeding the limit and the affected entities have an
 85 opportunity, after reasonable notice, to comment on the proposed
 86 overage. All such legal expenses shall be recognized by the department
 87 as proper business expenses of the affected entities for rate-making
 88 purposes, as provided in section 16-19e, if applicable.

89 Sec. 4. Sections 16-243a, 16-243b, 16-243c, 16-243d, 16-243e, 16-243f
 90 and 16-243g of the general statutes are repealed. (*Effective October 1,*
 91 *2006*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	16-22
Sec. 2	<i>October 1, 2006</i>	16-47(d)
Sec. 3	<i>October 1, 2006</i>	16-6a(b)
Sec. 4	<i>October 1, 2006</i>	Repealer section

Statement of Purpose:

To make certain changes to the public utility statutes in response to recent federal energy legislation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



Senate CONNECTICUT STATE LIBRARY
LEGISLATIVE REFERENCE SECTION

General Assembly

File No. 164

February Session, 2006

Substitute Senate Bill No. 569

Senate, March 28, 2006

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE UTILITY STATUTES IN RESPONSE TO THE 2005 FEDERAL ENERGY ACT.

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

1 Section 1. Section 16-22 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 At any hearing involving a rate or the transfer of ownership of
4 assets or a franchise of a public service company, or the formation or
5 change in control of a holding company, as defined in section 16-47, as
6 amended by this act, that involves a public service company within
7 this state, the burden of proving that [said] the rate under
8 consideration is just and reasonable or that [said] the transfer of assets
9 or franchise or that the change in control or formation of a holding
10 company is just and reasonable and is in the public interest shall be on
11 the public service company or the applicant company. The provisions
12 of this section shall not apply to the regulation of a
13 telecommunications service which is a competitive service, as defined

14 in section 16-247a.

15 Sec. 2. Subsection (d) of section 16-47 of the general statutes is
16 repealed and the following is substituted in lieu thereof (*Effective*
17 *October 1, 2006*):

18 (d) The Department of Public Utility Control shall investigate and
19 hold a public hearing on the question of granting its approval with
20 respect to any application made under subsection (b) or (c) of this
21 section and thereafter may approve or disapprove any such
22 application in whole or in part and upon such terms and conditions as
23 it deems necessary or appropriate, including, but not limited to, orders
24 that effectuate a rate reduction or sharing of merger-related savings
25 between shareholders and ratepayers. In connection with its
26 investigation, the department may request the views of the gas,
27 electric, electric distribution, water, telephone or community antenna
28 television company or holding company which is the subject of the
29 application with respect to the proposed acquisition. After the filing of
30 an application satisfying the requirements of such regulations as the
31 department may adopt in accordance with the provisions of chapter
32 54, but not later than thirty business days after the filing of such
33 application, the department shall give prompt notice of the public
34 hearing to the person required to file the application and to the subject
35 company or holding company. Such hearing shall be commenced as
36 promptly as practicable after the filing of the application, but not later
37 than thirty business days after the filing, and the department shall
38 make its determination as soon as practicable, but not later than one
39 hundred twenty days after the filing of the application unless the
40 person required to file the application agrees to an extension of time.
41 The department may, in its discretion, grant the subject company or
42 holding company the opportunity to participate in the hearing by
43 presenting evidence and oral and written argument. If the department
44 fails to give notice of its determination to hold a hearing, commence
45 the hearing, or render its determination after the hearing within the
46 time limits specified in this subdivision, the proposed acquisition shall
47 be deemed approved. In each proceeding on a written application

1067

48 submitted under [said] subsection (b) or (c) of this section, the
49 department shall, in a manner which treats all parties to the
50 proceeding on an equal basis, take into consideration (1) the financial,
51 technological and managerial suitability and responsibility of the
52 applicant, (2) the ability of the gas, electric, electric distribution, water,
53 telephone or community antenna television company or holding
54 company which is the subject of the application to provide safe,
55 adequate and reliable service to the public through the company's
56 plant, equipment and manner of operation if the application were to be
57 approved, [and] (3) for an application concerning a telephone
58 company, the effect of approval on the location and accessibility of
59 management and operations and on the proportion and number of
60 state resident employees, and (4) the benefits to ratepayers and the
61 citizens of the state. Such benefits may include, but shall not be limited
62 to, rate reductions or the sharing of proposed merger savings with
63 ratepayers.

64 Sec. 3. Section 16-18a of the general statutes is amended by adding
65 subsection (d) as follows (*Effective October 1, 2006*):

66 (NEW) (d) For any proceeding before the Federal Energy
67 Regulatory Commission, the United States Department of Energy, the
68 United States Nuclear Regulatory Commission, the United States
69 Securities and Exchange Commission, the Federal Trade Commission,
70 the United States Department of Justice or the Federal
71 Communications Commission, the department may retain consultants
72 to assist its staff in such proceedings by providing expertise in areas in
73 which staff expertise does not currently exist or when necessary to
74 supplement staff expertise. All reasonable and proper expenses of such
75 expert consultants shall be borne by the public service companies,
76 certified telecommunications providers, electric suppliers or gas
77 registrants that are affected by the decisions of such proceedings and
78 shall be paid at such times and in such manner as the department
79 directs, provided such expenses shall be apportioned in proportion to
80 the revenues of each affected entity as reported to the department for
81 purposes of section 16-49 for the most recent period, and provided

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SECTION

82 further such expenses shall not exceed two hundred fifty thousand
 83 dollars per proceeding, including any appeals thereof, in any calendar
 84 year unless the department finds good cause for exceeding the limit
 85 and the affected entities have an opportunity, after reasonable notice,
 86 to comment on the proposal to exceed the limit. All such legal
 87 expenses shall be recognized by the department as proper business
 88 expenses of the affected entities for rate-making purposes, as provided
 89 in section 16-19e, if applicable.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2006	16-22
Sec. 2	October 1, 2006	16-47(d)
Sec. 3	October 1, 2006	16-18a

ET *Joint Favorable Subst.*

[106]

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
All	Various - Cost	Potential Minimal	Potential Minimal

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
All Municipalities	Cost	Potential Minimal	Potential Minimal

Explanation

The bill allows the Department of Public Utility Control (DPUC) to retain consultants to assist in proceedings before certain federal agencies and federal courts on certain matters. However, the bill limits such expenses to \$250,000 per calendar year, unless DPUC finds good cause for exceeding the limit. Under the bill, legal expenses must be recognized as business expenses for traditional ratemaking purposes. Therefore, utilities would be able to recover the legal expenses in rates. To the extent that such costs could be passed on to the state and municipalities as ratepayers, it would be minimal.

The bill makes other various changes to the standard for approving transfers of assets, none of which have a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
sSB 569**AN ACT CONCERNING REVISIONS TO THE UTILITY STATUTES IN RESPONSE TO THE 2005 FEDERAL ENERGY ACT.****SUMMARY:**

This bill allows the Department of Public Utility Control (DPUC) to retain consultants to help in proceedings before federal agencies and requires that the affected utility or other DPUC-regulated company bear the costs of the consultants.

Under the bill, when DPUC holds a hearing involving the formation or change of control of a utility holding company that involves a Connecticut utility, the applicant company or utility has the burden of proving that the action is just and reasonable and in the public interest. By law, a utility already has the burden of proving that (1) a proposed rate change is just and reasonable and (2) a transfer of ownership of assets or a utility's franchise is in the public interest. The bill (1) extends the just and reasonable standard to transfers of assets and franchises and (2) extends the burden of proof to the applicant company, if it is not a utility.

By law, DPUC can condition its approval on (1) one utility exercising control over another utility, (2) the formation of a utility holding company, and (3) a change in control of a utility holding company on terms DPUC considers necessary or appropriate. The bill specifically allows DPUC to condition such approvals on orders that require a rate reduction or sharing of merger-related savings between ratepayers and shareholders.

EFFECTIVE DATE: October 1, 2006

CONSULTANTS

The bill allows DPUC to retain consultants to help its staff in proceedings before various federal agencies to provide expertise in areas where its staff lacks expertise or where the consultants are needed to supplement DPUC staff expertise. The agencies are the Federal Energy Regulatory, Nuclear Regulatory, Securities and Exchange, Federal Trade, and Federal Communications commissions, and the U.S. Department of Justice.

The reasonable and proper expenses of these expert consultants must be borne by the utilities, certified telecommunication providers, electric suppliers, or gas marketers affected by the proceedings. The expenses cannot exceed \$250,000 annually per proceeding, including appeals, unless DPUC finds good cause for exceeding this limit, after notifying the affected companies of its intent to exceed the limit and an opportunity to comment. The expenses must be allocated among the affected companies in proportion to each company's revenue, as reported to DPUC for purposes of its assessment (although gas marketers are not subject to this assessment). The expenses must be paid when and how DPUC directs.

The bill requires DPUC to recognize these "legal expenses" for rate-making purposes for those companies subject to rate regulation. It does not appear that this provision applies to expenses for consultants who are not attorneys.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/14/2006)