



ATTORNEY GENERAL WILLIAM TONG
STATE OF CONNECTICUT

LCO No. 3920: An Act Concerning Emergency Response by Electric Distribution Companies and Revising the Regulation of Other Public Utilities

Chairman Arconti, Ranking Member Ferraro, Chairman Needleman, Ranking Member Formica, and distinguished members of the Energy and Technology Committee, thank you for the opportunity to submit testimony on LCO No. 3920, *An Act Concerning Emergency Response by Electric Distribution Companies and Revising the Regulation of Other Public Utilities*.

I commend your leadership during this critical moment for Connecticut ratepayers. In July, while enduring the current public health and economic crises, Connecticut consumers coalesced in their anger when their Eversource electric bills skyrocketed. Then in August consumers of both Eversource and United Illuminating were left in the dark, many for a full week, after Tropical Storm Isaias thrashed the state. Connecticut ratepayers have a right to be angry and deserve meaningful change. Connecticut families simply cannot afford to pay more for their energy.

Answering this consumer call to action, LCO No. 3920 provides vital ratepayer protections and benefits. While I support many important features of this bill as detailed herein, I also offer the Committee additional considerations that could strengthen the underlying bill.

Performance-Based Regulation Should Focus on Ratepayer Benefits

Section 1 of the bill establishes a framework for performance-based regulation (PBR) of Connecticut's electric distribution companies (EDCs). PBR represents a utility business-model shift towards rewarding or penalizing utilities for their performance based on key metrics and away from the traditional utility cost-of-service model we currently use.

The success of PBR depends entirely on *how* it is designed and implemented. If done well, it could provide meaningful benefits to ratepayers. If done poorly, it can raise rates without improving performance.

I strongly support holding the EDCs accountable for their actual performance. To improve EDC performance and reduce rates through PBR, the standards and metrics applied *must* relate directly to the needs of ratepayers such as lower rates, service reliability, and service quality. They must also be clearly defined, objectively measurable, and be symmetrical—with incentives for exceeding targets and equivalent penalties for falling short.

As currently drafted, Section 1(b) contemplates PBR standards and metrics that do not directly relate to the needs of ratepayers, namely incentive bonuses for EDC actions that “benefit the public” or advance state “environmental and policy goals.” While these are clearly important goals writ large, the inclusion of these standards in PBR will incent the EDCs to pursue, *at ratepayer expense*, initiatives that go far beyond those necessary to provide quality electric service at the lowest rates possible. PBR should focus EDC attention on the reliable and affordable delivery of electricity to ratepayers, only.



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Executive Compensation Must Be Reined In

Section 4(a) permits the Public Utilities Regulatory Authority (PURA) to restrict the funding by ratepayers of compensation packages for executives and officers, as well as incentive compensation for employees of EDCs, gas companies, and water companies. This restraint depends upon the achievement of PBR targets established pursuant to Section 1.

I strongly support this effort to rein in the burden that executive compensation places on ratepayers. The top five executives of Eversource earned a total of \$92,066,459 last year, of which \$11,567,230 was paid for by Eversource electric ratepayers.

I urge the Committee to further consider the following recommendations. First, ratepayer contributions toward incentive compensation should only be available if those incentives relate directly to utility ratepayer benefits, such as lower rates, reliability, and better service quality. Second, under Section 4(b), tying EDC chief executive officer compensation to amounts paid by utilities in other states may not be adequate to protect ratepayers if those executive salaries are also excessive, which is incredibly likely. The Committee should consider limiting ratepayer contributions toward executive salaries to other comparable CEOs in Connecticut.

Ratepayers Must Be Made Whole After Imprudent EDC Storm Performance

Prolonged service outages impose enormous costs on ratepayers. EDCs that fall short of their public service obligations must be held responsible for their failures. While I fully support the goals of Section 11 and 12 to aid consumers, it is legally important that these nonrecoverable obligations be tied to findings of EDC imprudence. Additionally, I will reiterate my call upon Eversource to make ratepayers whole using *shareholder* funds for the refrigerated food and prescriptions they lost when they were without power for days on end following Tropical Storm Isaias. It is never too late to do the right thing.

Adopt Cost-Effective Measures to Ensure Adequate Outage Staffing and Facilities

Section 13, among other things, requires that PURA establish standards for minimum staffing of certain outage related positions. Section 14 requires the EDCs to open, operate, and staff all regional service centers available to each company. I share the legislature's profound concern and frustration with any EDC lack of staffing and resources required to provide reasonably reliable service, especially during major storms and outages. To best address this problem, I offer for your consideration that effective and appropriate PBR standards and metrics related to reliance and performance consequent to Section 1 could accomplish the goals of Section 13 and 14. Reliance on PBR standards to obtain such goals would also avoid the risk of unintended consequences that could flow from minimum staffing and facility requirements, such as bloated payrolls and underutilized facilities funded by ratepayers.



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Enhance PURA's Regulatory Tools

I strongly support the measures in this bill that will enhance PURA's ability to effectively regulate utilities.

- Section 15 authorizes PURA to order restitution as a potential remedy. This grant of authority is long overdue and would bring PURA's penalty authority more in line with most other state utility regulators. Restitution is often an appropriate remedy to make consumers whole who have been unfairly victimized.
- Sections 17 and 18 include necessary and appropriate improvements in the regulation and oversight of third-party retail electric suppliers. I strongly support the clarification in Section 17 that any third-party agent who contracts with, or is compensated by, an agent or third-party marketer of an electric supplier shall be a legal agent of the electric supplier. I also strongly support the elimination of the early termination fee of fifty dollars for residential customers. I further support the amendment reflected in Section 18, which expressly permits PURA to regulate electric supplier customer assignments and transfers.
- Sections 6, 7, and 8 extend the statutory timeframes under which PURA must adjudicate utility applications for rate increases, the issuance or amendment of financial instruments, and applications for changes of control, respectively. I fully support granting PURA more time to effectively and thoroughly consider these complex and consequential applications. However, I would urge the Committee to consider whether providing PURA with adequate time to handle these proceedings could be accomplished with shorter time frames than the bill contemplates.

Improve Corporate Governance

Section 21 installs an Independent Consumer Advocate on the board of directors of each EDC to advocate for ratepayer interests. A consumer voice on EDC boards is an appropriate measure to ensure that consumer interests are articulated to and heard by EDC boards when those boards are making decisions that affect consumers.

Conclusion

In sum, I support many of the critical ratepayer protections in LCO No. 3920 and appreciate your thoughtful consideration of the additional information I have provided. Thank you once again for the opportunity to submit testimony on this important bill, and please do not hesitate to contact me if you have any questions or concerns.