

Public Hearing – February 27, 2020  
Joint Committee on Energy and Technology

Testimony Submitted by Commissioner Katie S. Dykes

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

Thank you for the opportunity to present testimony regarding **LCO No. 3920 – An Act Concerning Emergency Response by Electric Distribution Companies and Revising the Regulation of Other Public Utilities**. The purpose of this bill is to reform utility regulation to align compensation with performance and allow for competition, to be responsive to the impacts of the COVID-19 pandemic and rising electric bills on Connecticut's families and businesses, and to increase the resilience of our critical infrastructure given increased storm activity due to climate change. This bill has multiple sections and I won't comment on all of them here, but I am happy to answer any questions that may arise.

**Sections 1, 2 and 3 of LCO No. 3920** require the Public Utilities Regulatory Authority (PURA) to open a proceeding to investigate, develop and adopt a framework for implementing performance-based regulation of the electric utilities, and amend existing statutes to make very explicit that PURA has the discretion to make compensation conditional on performance. These sections also provide PURA with the discretion to do the same with the regulated water and gas companies. DEEP strongly supports these sections as the cornerstone of the reform necessary to ensure that the utilities are driven not just to earn based on how much infrastructure they build, but based on how well they perform on behalf of Connecticut's ratepayers. The objectives listed in the bill for which metrics may be developed include safety, reliability, emergency response, cost efficiency, affordability, equity, customer satisfaction, municipal engagement, resilience and advancing the state's environmental and policy goals. DEEP looks forward to actively engaging in the PURA proceedings to implement these sections.

**Section 4 of LCO No. 3920** confirms PURA's authority to link executive compensation and employee incentive compensation to performance, and also caps the amount that the CEO can earn at the mean or median of what a CEO at a similarly situated electric utility in the Northeast or Mid-Atlantic states earns. DEEP supports this section but submits that clarifying language should be added to indicate that the point of comparison for the cap on the CEO's salary is the amount recovered in rates for CEOs of similarly situated electric utilities, with any amount paid by shareholders specifically excluded.

**Section 5 of LCO No. 3920** requires PURA to initiate a proceeding to consider an interim rate decrease, low-income rates and economic development rates for commercial customers, pursuant to existing statutory authority. During a time when Connecticut's residents and businesses are

struggling to stay afloat due to the impacts of the pandemic, it's time to take a look at the rate of return that the utilities are earning, as well as their carrying costs on large regulatory assets such as storm recovery expense. The utilities' profits should not be fully insulated from economic realities, while Connecticut's families are struggling to pay their bills and businesses are making decisions about whether they can stay open.

**Sections 6 and 8** increase the amount of time PURA has to decide rate cases and merger applications to 350 days. This will allow the regulator to take a more proactive approach in utility rate cases rather than only having enough time to react to the application that gets filed. Only 9% of state public utility commissions have less than seven months to adjudicate a rate case. I can personally attest that 180 days is simply not enough time to work through the complex issues involved in a rate case while instituting the kind of regulatory reform called for in the earlier sections of this bill, and that will also be necessary to modernize our electric grid.

DEEP supports **Sections 9 and 10**, which prevent the utilities from recovering the costs associated with appearances in rate cases and increase the penalty threshold that PURA can levy for poor performance related to emergency response.

**Sections 11 and 12** provide relief to ratepayers who have suffered from the effects of outages for more than 72 hours. Section 11 requires the utilities to provide a credit to ratepayers of \$125/day for outages over 72 hours, in emergencies resulting in 870,000 or fewer outages. Section 12 provides for compensation of up to \$500 each for medicine or food that spoils as the result of an outage. DEEP strongly supports performance incentives and penalties to ensure that the utilities are meeting their responsibility to provide safe and reliable service to their customers. DEEP suggests that these provisions, if retained, sunset once PURA establishes performance metrics for storm response pursuant to Sections 1 and 13 of this bill.

**Section 13** requires the utilities to submit to the General Assembly a report containing analysis of their storm response for the last five major storms, and also requires PURA to establish minimum staffing levels for line workers and other roles, as well as giving PURA the discretion to establish standards for performance in an emergency and in restoration of service. DEEP supports requiring the utilities to report on and be held accountable for their performance, and believes the performance standards portion of this section also falls within the broad discretion given PURA to establish performance based ratemaking in Section 1 of this bill. DEEP would be happy to work with the Committee to ensure that the language in the bill is internally consistent so that the path forward is clear and direct.

**Section 14** requires the utilities to open and staff all of their available regional service centers, and allows PURA to conduct an audit of their level of in-state workers for emergency response, including their incident command teams. DEEP supports ensuring that Connecticut's utilities have the in-state resources they need to more effectively respond to emergencies.

**Section 15** provides PURA with the authority to award restitution to customers in the context of a civil penalty pursuant to General Statute Section 16-41. DEEP strongly supports this change to promote electricity affordability, as under the current paradigm PURA is unable to order compensation to customers due who are, for example, victims of unfair sales practices by retail electric suppliers.

**Section 16** requires that DEEP evaluate, in the next Integrated Resources Plan, whether Connecticut's reliance on the wholesale energy markets administered by ISO-New England benefits Connecticut ratepayers, and is compatible with achieving Connecticut's policy goals and recommending alternative approaches to better meet Connecticut's need for clean, reliable and affordable electricity generation supply in a manner that leverages competition, reduces ratepayer risk and achieves the state's public policy goals. Correcting for ISO-New England market deficiencies, their lack of transparency in governance, and their failure to engage in effective and strategic transmission planning are critical to addressing electricity affordability in Connecticut. DEEP has already embarked on this study and looks forward to discussing it with you when it's released. This section also removes the utilities from their consultation role in DEEP's development of the IRP.

**Sections 17 and 18** contain portions of HB 5225 from this past session, some of which was also submitted in prior years, and increases consumer protections related to electric suppliers. DEEP strongly supports giving PURA the tools they need to protect consumers from predatory sales practices, and recommends that all of the protections included in HB 5225 be included here.

**Section 19** expands DEEP's microgrid program to include resilience projects. One thing that was highlighted during the recovery from Storm Isaias was that we need to increase the resilience of critical infrastructure that is not close enough to other facilities to be part of a microgrid. For example, our wastewater treatment plants need to have a reliable source of power, because running on generators for five or six days straight carries too much risk of failure. This bill would expand the microgrid program so that critical infrastructure can be made more resilient without connecting it to a microgrid. It would expand what is eligible for funding to include feasibility studies and benefit cost analyses, and adds a requirement to prioritize projects in vulnerable communities. In addition to the language in this section, we would like to work with the Committee to suggest amending the related bond authorization in section 13(c)(4) of Public Act 13-239.

**Section 20** requires a joint investigation by DEEP, PURA, the OCC, and the Energy and Technology Committee of the Northeast Utilities and NSTAR merger agreement, and recommendations regarding whether the provisions should be reinstated or codified. Many of the provisions of that merger governing local control expired after 7 years, which was in 2019. PURA's jurisprudence on mergers has evolved since the NU/NSTAR merger, with more ring fencing to insulate our utilities from adverse events affecting the holding company and affiliates, and preservation of local control. DEEP strongly supports finding ways to require that all Connecticut utilities have corporate structures and practices that promote local control, well beyond what was required in the NU/NSTAR merger settlement. This also highlights why it is so important for PURA to have more time to review merger dockets. DEEP does have questions regarding the process that would be associated with this investigation, and looks forward to engaging further with the Committee on that issue.

**Section 21** requires the establishment of an independent consumer advocate to represent ratepayer interests on the board of each electric distribution company, appointed for two year terms by the Consumer Counsel. DEEP supports this provision but thinks it would be helpful to modify the first sentence of this section so that it is clear that this consumer advocate has a distinct role from that of the Consumer Counsel, which would require minor editing.

**Section 22** introduces the potential for competition into the Conservation and Load Management Plan, by allowing DEEP, in consultation with the Energy Efficiency Board, to issue a solicitation for plans administered by third parties. This will provide alternatives to utility administration of the plan, and competitive approaches that could help drive down administrative costs associated with the energy efficiency programs. This bill also allows the programs in the plan to include societal benefits in the cost benefit screening, which will allow for the inclusion of greenhouse gas reduction benefits and help make the programs more accessible to customers with low incomes and in vulnerable communities.

DEEP also suggests that the bill include DEEP procurement authority for energy efficiency and demand response, similar to that within Section 3 of S.B. 10, from this past session. This would provide another means of achieving competition for energy efficiency programs. As we move forward with grid modernization and, in particular, vehicle electrification, demand response programs will be key to shifting loads off peak and reducing the need for infrastructure upgrades.

Finally, this bill may be an appropriate vehicle to help consumers manage electric bills by requiring residential property owners disclose information about home energy costs when they list a home for sale or lease. For many residents, energy bills are the highest annual housing cost after mortgage payments or rent. For low-income residents, those bills can consume more than 10 percent of income. Shining a light on these costs would enable homebuyers to make a more informed decision about one of the largest investments they will ever make and allow renters, who are disproportionately low-income people of color, to find housing that fits their budgets. It would also encourage cost-effective investments in home energy efficiency, create jobs, and reduce emissions from a sector that accounts for more than 10 percent of greenhouse gas emissions. This concept received a public hearing last spring.

I thank you for the opportunity to provide this testimony, commend you on taking necessary and bold action to reform the utility regulatory paradigm, and stand ready to work with the Committee and other stakeholders to further refine this important bill.