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Testimony of Connecticut Water Company  
Energy and Technology Committee – September 8, 2020

**An Act Concerning the Storm Response of Electric Distribution Companies  
and the Regulation of Other Utilities**

Connecticut Water recognizes and appreciates the Energy and Technology committee's efforts to ensure the appropriate response by the state's electric providers during major storm events. Safe reliable utility service is essential for businesses and residents across the state, including other utilities such as Connecticut Water who are served by the power companies. That said, we are concerned that the extensive changes proposed in the bill as drafted, represent broad regulatory shifts that may have unintended consequences, including potentially negative implications on water utilities.

Connecticut Water provides water service to more than 100,000 customers, or approximately 360,000 people in 60 towns in Connecticut. Water utilities are generally much smaller in scale than the state's electric utilities, with our company having about 225 employees to serve our customers. As a public water utility, we have a long standing commitment to public health and safety. We strive to manage costs and make timely investments in our water systems to ensure continuous delivery of quality water and service to the customers and communities we serve.

Our company, like businesses and residents throughout Connecticut, was affected by the widespread power outages and faced challenges with communications and prioritization for restoration in the most recent storm event Isaias. We are proud to say that, despite extended power outages Connecticut Water maintained continuous water service to our customers throughout the storm event. This was only possible because of our local team's operational expertise and their knowledge of our systems and the company's ongoing investments in our water systems through the years to enhance redundancy and operational flexibility. We have 100 plus generators permanently installed or otherwise available to power our facilities to sustain our operations to continuously support the public health and safety needs of our customers and communities, including critical facilities such as hospitals and nursing homes.

We were pleased to see the benefits during this most recent event of some strategies and actions that were put in place as a result of the work of the extensive review conducted by the legislature's "Two-Storm Panel" in 2011. Specifically, daily calls of the state's Emergency Operations Plan Group ESF-12 led by PURA provided an opportunity to identify critical water system needs and get additional information from the power utilities. The formation of a subgroup of ESF-12 led by the Department of Public Health to focus on the priorities of the

water and wastewater sector was a key addition to the process to foster better communication. We will provide comments in the PURA docket on that and other areas that we believe could enhance the communications in future events.

We concur with the testimony of our industry association, the Connecticut Water Works Association, regarding *An Act Concerning the Storm Response of Electric Distribution Companies and the Regulation of Other Utilities*. As we have reviewed the bill, it seems clear that the focus of the committee and many of the changes are directed at the electric companies. We are concerned, however, that as drafted some of the provisions would apply to all public service companies. Further, we would caution that even sections that are drafted now with limited applicability to EDCs could establish precedent and easily be modified later to extend to other sectors at the detriment to their businesses and operations.

Given the extent of the changes in the bill, and the risks of unintended consequences, we would strongly urge that the committee consider limiting any actions in special session to measures that are truly in need of immediate remedies and defer other matters until a regular session. The timeline and process in the regular session would allow for broad stakeholder involvement and better opportunity to understand the potential implications of any proposed changes.

To the extent there were no reported issues with the water utilities' performance in any of the major storms and no concerns voiced about water utility rate adjustments or compensation, we do not want the successful practices of well-run water companies to be inadvertently impacted by this legislation aimed at EDCs.

We have detailed on the attachment concerns with the current bill from the perspective of a water company. The most significant areas of concern related to:

- Definitions and Applicability
- Performance Based Metrics –Section 1 and Section 3
- Timeline for Regulatory Actions – Sections 6, 7 and 8

We appreciate the opportunity to provide comments on this important proposal. We respectfully request that you consider these concerns before taking action on the bill to avoid potential negative impacts on the state's water utilities that have consistently met the needs of our customers and communities.

Connecticut Water, and our utility association CWWA, stand ready to answer any questions and to work with the Committee regarding our concerns about the potential implications of the bill on water companies. Thank you.

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Potential Implications on Water Companies of  
*AAC Emergency Response by Electric Distribution Companies and Revising the  
Regulation of Other Public Utilities*

Definitions and Applicability

An underlying concern is that the bill refers specifically to ‘electric distribution companies’ yet several sections amend underlying statutory provisions which apply to all public service companies, which as defined in Section 16-1 would include *electric distribution, gas, telephone, pipeline, sewage, water and community antenna television companies and holders of a certificate of cable franchise authority, but shall not include towns, cities, boroughs, any municipal corporation or department thereof*. As such, there are multiple sections that are read to include water utilities as they would be covered within the definition of public service company.

Performance Based Metrics –Section 1 and Section 3

Performance based rates can be an effective tool to ensure the ratepayers interests are considered in various regulatory proceedings. Our company would be open to that as a practice for water utilities, provided the metrics are reasonable, clearly measurable and specifically defined to consider the unique water quality, service and environmental considerations for water utility operations. We would caution against applying standards to water utilities that were established based on the factors that are relevant for EDCs. We would note that including measures that ‘benefit the public’ may be more difficult to define and measure and much more subjective. These references are found in:

- Section 1 requires a proceeding to establish standards and metrics for measuring each EDC’s performance and allows the authority to initiate a proceeding to adopt a framework for performance-based regulation for gas and water companies.
- Section 3 later states that the authority shall consider the implementation of performance based metrics in any proceeding in 16-19a or any rate hearing pursuant to Section 16-19.
- Section 4 later ties the recovery through rates of compensation for executives and officers for any electric distribution company, gas company or water company to the achievement of performance targets established pursuant to section 1 of the act.

#### Limitations on Rate Recovery on Compensation - Section 4

The Authority has ample power to limit the amount of executive compensation borne by customers and to do so taking into account many criteria including information presented in utility specific rate proceedings that document salaries of peers and comparable size companies. Legislative efforts to address EDC compensation issues should not spill over into other utility industries.

#### Interim Adjustments - Section 5

It is unclear which utility(s) would be included in the proceeding that PURA is required to initiate by November 1, 2020 to consider the implementation of an interim rate decrease, low-income rates and economic development rates for nonresidential customers. Absent a reference to any specific sector, it would appear to be a generic proceeding that would apply to all utilities.

We would note that there are existing authorities for PURA in Section 16-19 that provide metrics for rate reviews and, if appropriate, rate decreases. Further, provisions in Section 16-20 which are specific to water allow for PURA investigations and rate adjustments upon petition that there is inadequate service or unreasonable rates. Given the existing powers, it does not seem necessary or appropriate to legislate such an investigation for all utility sectors.

#### Timeline for Regulatory Actions – Sections 6, 7 and 8

We are particularly concerned with the proposed changes in the time for the Authority to review various applications or requests.

- Rate proceedings would be extended from 120 days with an option for a 30 day extension to 350 days, nearly a full year to adjudicate. (Line 266)
- Utility financing activities would be extended from 30 to 90 days (line 297)
- Review of mergers through a change in control would be extended from 150 days to 350 days (Line 325)

While some additional time or provisions for additional extensions may be needed, particularly in more complex rate cases or merger applications, unilaterally and significantly extending the time to nearly a year for such proceedings in all sectors does not seem reasonable or appropriate. Extending the timeframe for rate cases and mergers will only add to the costs for internal and external resources to support the proceeding and distract from other important work of the utility management team, particularly for smaller companies in the water sector. Such extended regulatory proceedings create significant uncertainty for the company and the markets which can impact the completion of a transaction and/or the cost of capital for the utility that ultimately will affect customers.

Section 16-47 is the mechanism that is used to provide for the acquisition/consolidation of small struggling water companies consistent with state health goals and ensure that company that owns such public water system is in position to meet state and federal water quality standards and make timely investments in the system. Delaying that to take 350 days will only add costs and uncertainty and be a deterrent that could put customers' water quality and service at risk while an application is pending.

Extending the time for financing matters is also problematic, particularly for water companies, as it is difficult to hold interest rates and plan borrowings with a protracted time for approval. These borrowings are usually sought to ensure adequate funds for continued and essential infrastructure investments and/or to take advantage of rates that will ultimately benefit customers in rates. The current timeline of 30 days may be too limited for the Authority but we would suggest you consider extending it to 60 days for those matters.

The predictability on the timing of decisions in rate cases is one of the regulatory practices in Connecticut that is viewed by independent assessment of the states' regulatory environments. As the public service companies support the funding of staff at PURA through their annual assessments, we would prefer to have the Authority adequately staffed to allow for timely proceedings than to more than double the timeline for a final decision in key regulatory proceedings.

#### Prohibiting Recovery for Rate Making Proceedings – Section 9

We are concerned with the precedent being set by automatically prohibiting an EDC from recovery of costs associated with attendance or participation in rate making proceedings before the Authority. These include the cost for internal resources, legal support and expert witnesses for cost of capital and cost of service studies as well as any costs for consultants for the Office of Consumer Counsel. The Authority already has sufficient legal power to disallow imprudent or otherwise inappropriate utility costs.

It could be a real deterrent for water companies to make necessary investments in their systems or seek timely recovery if there were require to absorb the costs of these proceedings. The costs for a rate case filing are not insignificant relative to the revenues for a water company and would be difficult to absorb without risking the financial integrity of the company. This could have the effect of companies delaying their filings, and will mean larger increases for customers at the time to cover the amount of investments made since the last case, rather than more frequent incremental adjustments.

#### Independent Consumer Advocate - Section 21

While the proposed requirement for an Independent Consumer Advocate on a company's board of directors does not apply to water companies as drafted, we would note the existing statutory requirement in Section 16-262a for water companies to have a customer advisory council. This council of residents of the area served by the water company speaks to the interests of customers and communities, and the company's officers and board of directors, are expected to consult and advise with the council on matters of local interest

We would suggest that the water utility Customer Advisory Council provides a voice for water company customers without adding a designated member to a company's board of directors. Particularly for the smaller water company board, it is already a challenge to ensure you attract individuals with the right skill sets to satisfy governance requirements and the fiduciary responsibilities of a publicly traded company under the SEC rules.