

The Energy and Technology Committee

Public Hearing, March 5, 2013

Office of Consumer Counsel

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Testimony of Elin Swanson Katz

Proposed H.B. No. 6473, An Act Concerning Whistleblower Protection, the Purchased Gas Adjustment Clause, Electric Supplier Disclosure Requirements, the Call Before You Dig Program, and Minor and Technical Changes to the Utility Statutes.

The Office of Consumer Counsel (OCC) agrees with and supports this bill, which makes some needed technical changes as well as some improvements in process or disclosure, with one suggested improvement. OCC notes with particular appreciation the change to Section 16-245o which would require three weeks' advance notice of a rate change by a retail electric supplier (lines 563-567). Such a provision is necessary because in the absence of such notice, processing delays or imperfect information flow could cause the customer to become unknowingly liable for several weeks of elevated rates. Customers should be given a reasonable opportunity to react to a rate change by a retail supplier before it becomes effective. OCC also appreciates the proposed changes to Section 16-19(a), which improve the timeliness and content of notices to customers from utilities as to proposed rate increases (lines 250-256).

However, OCC supports the proposed change to the whistleblower protection statute (Section 4) only conditionally, as is next discussed.

Section 4 of this bill, amending subsections (c) and (d) of section 16-8a, also known as the "whistleblower protection statute," would give the Public Utilities

Regulatory Authority (“PURA”) ninety days to make a preliminary finding as to the veracity of the whistleblower complaint, whereas the present requirement is thirty days.

A ninety day time frame for the preliminary finding would fairly balance the need of whistleblowers for a temporary order of reinstatement (see subsection (c)(4)), where warranted, with PURA’s need to have a reasonable amount of time to collect and review the facts necessary to make a preliminary finding. However, OCC will support a 90 day deadline for the preliminary finding only if it is a true deadline that is binding on PURA. If PURA fails to issue a preliminary finding in ninety days, the law should state that PURA must nevertheless order temporary reinstatement and open a full investigatory proceeding. Whistleblowers should not be asked to wait more than 90 days for a preliminary finding because of the potential economic consequences of such a lengthy delay.

Accordingly, OCC recommends that subsection (c)(4) (lines 196-200) be clarified to read as follows:

(4) If the authority makes a preliminary finding, pursuant to subsection (3), that the complainant may have suffered a retaliatory employment action in violation of subsection (a) of this section, or if the authority fails to issue a preliminary finding within ninety days of receipt of a complaint, the authority shall issue an order requiring the employer to immediately return the employee to the employee’s previous position of employment or an equivalent position pending

the completion of a full investigatory proceeding pursuant to subsection (d) of this section.

Adoption of this language would restore the appropriate balance between PURA's procedural needs and the rights of whistleblowers, as it would provide for relatively swift reinstatement and a full investigatory proceeding unless the utility can prove with clear and convincing evidence that the complaint is baseless.