

Summary and Comments
PURA Final Decision in Docket No. 12-01-10, Tree Trimming
June 25, 2014

Modification of the vegetation management plans: The decision requires modification of utility vegetation management plans by June 11, 2014. Citing Section 16-234(b), as amended by Public Act 14-151, PURA states: "Therefore, the Authority expects the utility companies to use alternative solutions (other than outright removal of vegetation) within the Utility Protection Zone ("UPZ") whenever conditions permit. Statements in the Final Decision that support that goal within the UPZ include the following:

a. The 8 foot line clearance dimension is a *starting point* for evaluation, and "[t]he actual distance [from the wires] will result from the required cut of the tree so that a healthy tree remains."

b. The utility must evaluate each tree at least 10 days prior to sending a notice and the tree crew must also evaluate it prior to pruning. The evaluation includes consideration of tree species, condition, growth rate and failure characteristics, public right-of-way limitations, tree location, potential movement of vegetation and conductors during routine winds, and sagging of conductors due to elevated temperatures or icing.

Comment: To facilitate the permitting process, the evaluation by the utility should accompany an application to the tree warden or DOT for a permit.

c. "Any non-hazardous tree located in whole or in part within the UPZ may be retained, provided that its species, condition and growth rate indicate that pruning without removal will reduce the risk of harm to the utility infrastructure."

d. Any tree listed as a Right Tree/Right Place tree in the State Vegetation Management Task Force report "shall remain and be properly trimmed unless there is a special circumstance requiring its removal."

e. No pruning or removal is to take place without a permit from the tree warden, and with regard to removal, the Final Decision specifies that it shall be a *written* permit.

Comment: State law also requires a permit from the DOT. A permit for pruning should also be in writing, and we believe that a permit is necessarily a written document.

f. Vegetation Management Plans are to be comprehensive and flexible to accommodate the diversity of vegetation in Connecticut. The utilities are directed to "consider the diversity of vegetation in urban, suburban and rural areas in determining the necessary pruning requirement to ensure reliability in those areas."

Comment: The above omits statements that may be interpreted as inconsistent with the general principles of retention of vegetation, and the need for flexibility to accommodate differences among vegetation in rural, suburban and urban areas. For example, one statement seems to suggest significant restrictions on retention of tall healthy non-hazardous trees, which are almost all of the street trees in many urban areas.

We nevertheless interpret the PURA Final Decision to allow for decision-making at the local level involving tree wardens or DOT and property owners that ensures that pruning and removal are performed only as necessary to achieve utility reliability in accordance with Public Act 14-151's amendments to Section 16-234. Upon appeal from

a tree warden or DOT decision to PURA, the actual facts of the tree pruning or removal in dispute will determine any outcome of mediation. Should a hearing be necessary before PURA, the actual facts will determine whether the utility can meet its burden of proving that the pruning or removal is necessary for utility reliability.

Preference for local decision-making: PURA explicitly states its preference that objections and requests for modifications to proposed pruning and removal be resolved at the local level.

Ensuring that property owners receive proper notice prior to pruning or removal: The final decision requires "advanced written and timely notice of pending vegetation management activities by email, fax or direct, personal contact." If contact cannot be made in that way, notification by certified mail with return receipt is required. The sender has to be identified with the name of the utility and "Tree Trimming Notification." Written documentation showing that a property owner received notice must be retained for 24 months. When notification is by personal contact, the written record can be the property owner's initial on the utility's field notes of the personal contact.

Comment: It is unclear whether this notification is to occur earlier than the notice required pursuant to Section 16-234 (c)(1) -(3) of the CT general statutes, or is intended to supplement the statutory notice requirements at the time that such notice is given. In a later part of the Final Decision, it summarizes the statutory requirement without linking it to the above notice requirement.

Stump grinding and tree replacement: PURA determined that it is too costly to stump grind tree removals unless the stump creates a safety hazard. It deferred consideration of additional stump grinding or tree replacement until it completes its investigation of when stump grinding may be performed in the UPZ.

Comment: PURA's deferral of this issue does not prevent a utility from stump grinding and replacing a tree that has been removed with a Right Tree/Right Place tree. The cost of doing so, however, might not be considered by PURA as a legitimate expense to be recovered by the utility in its rates.

Data collection: PURA will require the utilities to provide the following information in their annual vegetation management plans:

- Number of property owner/customer objections by town in prior year.
- Number of property owner/customer objections by town in prior year accepted by the Tree Warden.
- Number of property owner/customer requests for modifications and decisions reached.
- Number of trees per town assessed to be hazardous or non-hazardous.
- Number of property owners/customers who give affirmative consent versus non-responses.
- Number of mediations conducted and outcome of mediation.

- Number of objections appealed to PURA by either the EDC [electric distribution company] or landowner and outcome.
- Number of removals of non-hazardous trees.
- Number of RTRP [Right Tree Right Place] trees planted by the EDC, reasons for planting, costs.
- Did property owner maintain the newly planted tree?
- Number of stumps ground by EDC, reasons for stump grinding, costs.

Coordination with the DEEP Forestry Division: PURA makes a commitment to work with DEEP's forestry division in reviewing vegetation management plans and in handling appeals to PURA by a utility or property owner from a tree warden's decisions. With the Forestry Division, PURA intends to consider additional data collection and what differences in vegetative management practices are necessary in urban, suburban and rural areas.

Possible impact on costs and schedules from implementation of Public Act 14-151: The utilities are required to submit information on cost, schedule and other impacts from implementation of the Act.

Comment: Although this information could form the basis for a request for an increase in rates, a change in vegetation management plans to reduce the number of tree removals could reduce costs.