



### The Garden Club of New Haven

*Promoting the preservation of natural resources is one of the primary missions of The Garden Club of New Haven (GCNH), and of the organizations with which is affiliated, the Federated Garden Club of Connecticut and the Garden Club of America. Since 2011, GCNH has actively participated in educating the public about issues involving trees and power and advocating for a balanced approach to preserving the benefits of trees and protecting public safety, including power reliability. GCNH therefore supported legislation that resulted in the current text of Section 16-234 of the Connecticut General Statutes.*

May 19, 2020

Melissa Paslick Gillett, Chairman  
John W. Betkoski III, Vice-Chairman  
Michael Caron, Commissioner  
Public Utilities Regulatory Authority  
Ten Franklin Square  
New Britain, CT 06051

*Filed electronically and by U.S. first class mail*

Re: Docket No. 18-25-12 Comments on Answers to Interrogatories by UI and DEEP,  
PURA Review of Electric Companies' and Electric Distribution Companies' Plans for Transmission  
and Distribution Overhead and Underground Lines

Dear Chairman Gillett, Vice-Chairman Betkowski and Commissioner Caron:

For your consideration, the Garden Club of New Haven ("GCNH") submits the following comments on the responses submitted to PURA on May 5 to interrogatories EL-001 and EL-003 through EL-008 by the United Illuminating Company ("UI") and to interrogatories EL-9 and EL-10 by the Department of Energy and Environmental Protection Division of Forestry ("DEEP Forestry"). References to the interrogatories in the comments below are highlighted in **bold** for ease of reference. UI's answers confirm the validity of our previous comments with regard to UI's Targeted Risk Management program ("TRM"), submitted to you on December 28, 2019 and February 3, 2020, and we refer you to them.

#### GCNH Comments re: UI's responses :

UI's response to **EL-001** admits that it has not performed UPZ maintenance work on the circuits chosen for TRM despite "reliability history for tree related outages on those circuits," effectively allowing the risk of outages to grow. It does not explain why it did not perform maintenance after the UPZ program went into effect in 2014. The **EL-003** attachment confirms its failure to do so. Having neglected its duty to perform maintenance work within the UPZ to prevent outages, UI now claims a broader than warranted exemption based on "direct contact" to prune trees outside the statutory framework of Section 16-234 C.G.S., using its novel and unauthorized TRM program. Section 16-234(c) protects the rights of abutting property owners

and private property owners (hereafter referred to as "property owners") to notice of and involvement with decisions to prune or remove affected trees, and recognizes that utilities must obtain tree warden permits pursuant to Subsection 23-65(f) C.G.S. for pruning and removal. The involvement of tree wardens and property owners is important to ensure that electric utilities conduct vegetation management so that tree health and structural integrity will be protected and that pruning will be performed according to professional tree standards.<sup>1</sup> Improper pruning can, of course, result in damage to the health and structural integrity of the trees, making them more likely to become hazardous.

Although UI states in response to **EL-001** that it provides notice to "abutting residents" (presumably meaning property owners), it does so only at least 3 days prior to the work being performed. It is not in compliance with Section 16-234 (c), which requires notice at least fifteen business days prior to the starting date. Since a copy of the notice has not been submitted, it is impossible to determine whether the property owner (who may, in fact, not receive the notice in time) has any opportunity to object or suggest options for better pruning. Even with that opportunity, any such notice for pruning under TRM is not in compliance with 16-234(c). TRM is also inconsistent with the reason for the 16-234(e) exception to the notice and permit requirements -- that immediate action is *necessary*, so that there should be no delay.<sup>2</sup> Since TRM is planned, delay is inherent in its processes, and it cannot logically rely for its justification on Section 16-234(e). Moreover, UI's answer to **EL-001** does not indicate that a permit is obtained from the tree warden. It notes that a street list of circuits is provided to the tree wardens followed up with a phone call. That appears to be the list that is required pursuant to Section 16-234 (i) in order to facilitate planning for UPZ pruning. Provision of the list itself is not a substitute for obtaining a tree warden permit.

The **EL-003** Attachment shows sole reliance on direct contact as justification for pruning in the listed towns under its TRM program.<sup>3</sup> The lack of UPZ maintenance may have allowed dangerous conditions to develop, but the number of trees pruned in many of the towns pursuant to TRM strongly suggests misuse of the direct contact exemption to avoid compliance with the normal Section 16-234(c) and Section 23-65(f) procedures.

Unfortunately, the before and after photos provided in response to Interrogatory **EL-004** are not taken from the same location point or at the same angle, making it difficult to determine whether there was direct contact that made immediate action necessary. In addition, the photos were not taken sufficiently close to the points of contact, so that actual points of contact are not clearly visible, making it difficult to determine whether immediate pruning was necessary. From a distance, the appearance of contact also could be an illusion, depending on position and angle.

Nevertheless, the photos do suggest that more pruning of a tree than required to eliminate direct contact is being done.<sup>4</sup> To comply with applicable statutes, once the pruning of a tree to eliminate the direct contact for which immediate action is necessary is completed, UI should be

1. Section 16-234 (a) (5) states: "Pruning" means the selective removal of plant parts to meet specific utility infrastructure reliability goals and objectives, when performed according to current professional tree care standards and in a manner that retains the structural integrity and health of the vegetation;"
2. Please see pp. 3-4 discussion of Section 16-234(e) in GCNH comments dated February 3, 2020.
3. For tree removal, UI states that Section 16-234 notification and tree warden or DOT permits are obtained.
4. This is consistent with David Goodson's testimony on behalf of UI to PURA on May 17, 2019, stating that TRM pruning was designed for a "four-year clearance" that "should be good for four years, on average . . ." (Referenced on p. 2 of GCNH December 28, 2019 comment and p.2 of the February 3, 2020 comment.)

required to follow the statutory processes for tree warden permits and property owner notification for any additional pruning of the tree. It could begin the notification process promptly after its elimination of the direct contact.

UI's inability to provide an answer to **EL-005** regarding complaints suggests that PURA should require UI and Eversource to maintain the statistics requested through a reliable process.

**Attachments 1 and 2 to EL-005** are offered as an example of how UI works with municipalities. As outlined in the letter from Hamden Mayor Leng in **Attachment 1**, Hamden's agreement with UI specifically requires advance notification to the Town arborist of TRM inspections, gives the arborist the right to accompany the UI crew and allows him to confirm that "immediate action without notice" is warranted. Presumably, if the arborist does not so confirm, the proposed pruning must be done in accordance with the notification and permit requirements of Section 16-234(c) and Section 23-65(f). The **Attachment 1** letter appears to provide that all other work must be performed in accordance with the UPZ program practices that had been in effect prior to UI's unannounced commencement of TRM. As **Attachment 2** indicates, this agreement was only reached after Hamden issued a cease and desist order.

UI does not indicate what practices it follows in other towns in which it has failed to perform UPZ pruning and has been utilizing TRM. Since UPZ maintenance has been neglected in numerous towns served by UI, expedited review of circuits for direct contacts that must be pruned immediately may be needed. If so, any such program, which will be called Temporary Modified TRM herein, should require tree warden inspection and advance approval, be limited to *immediately necessary* pruning of direct contacts, and be limited in duration. In addition, to restore municipal and property owner trust, close up photographs of the direct contact and before and after photos of the whole tree, taken from the same location and angle, should be provided to the tree warden and the property owner promptly after the work is done. If a short delay is possible, UI should inform the property owner prior to the direct contact pruning by e-mail, phone or in person at the property and indicate when it will occur. This will allow the property owner to see the direct contact and observe the work.

Even while Temporary Modified TRM is being conducted, PURA should require UI to promptly begin pruning the neglected circuits and all other circuits in its territory in accordance with the statutory notice and permit requirements for pruning in the UPZ. In its answer to **EL-006**, UI indicates that it has not done any UPZ pruning in the circuits on which it has used TRM. No information was asked for or provided as to whether UI did UPZ pruning on other circuits in the towns where it used TRM. If UPZ work is properly done going forward throughout UI's service area, direct contact pruning should rarely be required. After a short period of time, Temporary Modified TRM should no longer be needed and should not continue, both to fully comply with the statutory processes and to avoid the inefficiency of pruning for only direct contacts on a limited number of trees on a circuit and then returning to do all needed UPZ pruning for proper maintenance.

UI's answer to **EL-007** suggests that PURA should require UI and Eversource to maintain records of tree warden notifications of direct contact requiring immediate action and of requests for removal of hazardous trees.

In its answer to **EL-008**, UI states that in its Direct Contact program: "The Company may prune trees that are in direct contact when a property owner objects to tree pruning under the UPZ program or a capital construction project . . ." This may be a misstatement of its practice, but if UI regards an objection to tree pruning as a justification for direct contact pruning when it had not previously viewed the direct contact as being in need of immediate action and no changes had occurred, it is violating the rights of the property owner to object under Section 16-234 (c). If this is its practice, it is a clear violation of the statute.

GCNH Comments re: DEEP Forestry's responses:

GCNH supports the establishment of the Vegetation Management (VM) working group, described in **EL-9 and EL-10**, but has some suggestions regarding its composition and the composition of the proposed executive committee.

We agree that the working group must be kept small. However, given the diverse towns within both the Eversource and UI service territories, one representative tree warden from each service territory and one Tree Committee Member from the whole state, actually cannot be representative of all of the diverse needs and views, beginning with the acknowledged differences among urban, suburban and rural communities. This should be explicitly recognized and emphasis should be put on the responsibility of the working group to gather all views, using surveys or other means.

In addition, the working group must have adequate staff with technical expertise to conduct surveys, find relevant research within and outside of Connecticut, and evaluate the research to address the topics described in **EL-10**, which we agree need consideration. The VM working group cannot be expected to do that work, but should guide it and, of course, bring their expertise to the proceedings.

As to the executive committee for administrative and organization purposes, which would also establish the agenda, it should be limited to PURA and DEEP. Inclusion of the electric distribution companies, which are regulated by PURA in the interest of the public, would give them an influence on the agenda greater than that of municipal, environmental and citizen groups, which would definitely be perceived as unfair. If the electric distribution companies are included, then at least two other representatives chosen from among the municipal, environmental and citizen groups should be included on the executive committee.

Thank you for your consideration.

Respectfully submitted,  
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