



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.

Testimony to the Energy and Technology Committee
In Opposition to Sections 2 and 3 of Raised Bill 950

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To: Co-Chairs Senator Needleman and Representative Arconti
Co-Vice Chairs Senator Winfield and Representative Allie-Brennan
Ranking Members Senator Formica and Representative Ferraro and
Members of the Energy and Technology Committee

The Garden Club of New Haven strongly opposes Sections 2 and 3 of S.B. 950, which, if adopted, would amend Section 16-234, C.G.S. to give the electric distribution companies ("utilities"), Eversource and United Illuminating (UI), unchecked power to prune and remove trees within a significant portion of municipal and state public rights-of-way where their electrical distribution wires are located, primarily in what is called the utility protection zone (UPZ), and in some cases on private land.

We address the following points in this testimony:

A. The proposed amendments are inconsistent with the policy goals of Section 16-234;

B. The proposed amendments harm the interests of municipalities, the state and property owners in the public rights-of-way and the trees within the rights-of-way and on abutting private property.

C. The proposed amendments are not needed to secure the reliability of the utility infrastructure within the UPZ.

Before discussing these points, it is first necessary to understand the texts of the two proposed amendments and their implications.

The Proposed Amendments and their Implications:

Section 2 of S.B. 950 adds a definition: "(a)(8) "Three phase main" means the segment of a circuit which originates directly from a substation and is protected by a circuit breaker or a recloser-type device."

Neither Eversource nor UI use the word "main" in their line management plans and vegetation management plan metric reports submitted to PURA for the 2020 year.¹ Eversource uses the terms backbone and lateral to describe its electric distribution wires, and backbone is a commonly used alternative term for "main" in the industry. UI describes its wires as primary and secondary. For Eversource, all backbone distribution wires are three phase and some laterals are also three phase. It is unclear whether only primary wires are three phase in UI's distribution system.

Metrics provided by Eversource for 2020 show that of the 24% of its system miles where vegetation management was conducted, 27% were backbone miles (1146 backbone out of a total 4157 miles). (Eversource Line Maintenance Plan, January 2, 2021, PURA Docket #20-12-44, Appendix 3, Section 1) UI's metrics showed completed vegetation management miles for 2020, categorized as single phase and three phase, with three phase miles constituting over 50% of the completed miles (215.5 out of a total 425 miles). (Table 1, UI Exhibit I Vegetation Management Plan Metrics, PURA Docket #20-12-44) An uncertain number of the three phase miles could have been secondary wires rather than primary.

Section 3 of S.B. 950 provides:
"(2) No utility shall be required to obtain a permit pursuant to subsection (f) of section 23-65 or obtain consent under subsection (c) of this section to prune or remove a tree, as necessary, if any part of a tree (A) is located in the utility protection zone for a three phase main, or (B) is part of a hazardous tree that could endanger any three phase main."

Thus, a significant portion of each companies distribution lines -- more than a quarter in the case of Eversource and up to a half in the case of UI, depending on whether only primary wires are three phase -- would be exempt from the permit and notice requirements of Section 16-234, C.G.S., and from its limitations on pruning and removal of trees on private property outside of the public right-of-way², if Sections 2 and 3 of S.B. 950 were adopted.

A. The proposed amendments are inconsistent with the policy goals of Section 16-234, C.G.S.

Section 16-234, C.G.S. is designed to ensure the reliability of utility services through vegetation management by the utilities that also protects the trees and shrubs that are compatible or can be pruned to be compatible with the utility infrastructure. "Pruning" is defined in subsection (a) (5) as "selective removal of plant parts to meet specific utility infrastructure reliability goals and objectives, when performed according to current

¹ [PURA Docket No. 20-12-44](#)

² The UPZ can extend outside of the public rights-of-way into private land.

professional tree care standards and in a manner that retains the structural integrity and health of the vegetation." Subsection (b) provides: "A utility may perform vegetation management within the utility protection zone, as necessary, to secure the reliability of utility services."

Both the section 23-65(f), C.G.S. requirement for a tree warden or Department of Transportation (DOT) permit and the Section 16-234 (c) requirement of reasonable notice to property owners prior to commencement of pruning or removal within the UPZ (including opportunities to object and request modifications), are essential to ensuring that whatever pruning or removal is proposed by the utilities is necessary to achieving reliability and also protects the health and structural integrity of the trees. These requirements provide needed oversight of utility pruning and removal practices.

The existing exemptions in Section 16-234, C.G.S. from notice and/or permit requirements, do not conflict with the statutory goals, but the proposed amendments do.

Subsection (d) of 16-234, C.G.S. provides that in order to prune or remove a hazardous tree within the UPZ or within a public right-of-way, a utility is not required to give notice to property owners. The utility may proceed to remove or prune upon the written authorization of the tree warden or DOT. (A 3 day notice to a property owner is required if the tree is within the UPZ, but on private property outside the public right-of-way.)

This exemption respects the authority of the tree warden or DOT over the trees in the public right-of-way and ensures that the tree warden or the DOT representative agree that the tree is in fact hazardous. It also gives some notification to private property owners whose trees are on private land within the UPZ. If a tree is hazardous, prompt action is required, and Section 23-59, C.G.S. has long provided that tree wardens need not provide public notification before removal or pruning of a tree that is an immediate public hazard and under their care and control within the public right-of-way.

Subsection (e) of 16-234, C.G.S. provides for exemption from both the notice and permit requirements "to prune or remove a tree, as necessary, if any part of a tree is in direct contact with an energized electrical conductor or has visible signs of burning." PURA recently issued a final decision in Docket No. 18-12-25, holding that the exemption could only be used by the utilities to do the minimum pruning required to eliminate the contact or burning, recognizing that removal might sometimes be the minimum required. UI had claimed a broad interpretation of this "direct contact exemption" to prune circuits in selected municipalities to UI's full line maintenance clearance standards without obtaining a permit or notifying property owners in accordance with the statute. As correctly interpreted by PURA, this limited exemption serves the current statute's goals of reliability and protection of the health and structural integrity of trees.

In contrast, the exemption proposed in Section 3 of S.B. 950 effectively removes all oversight of utility pruning and removal practices within a substantial portion of a town's public rights-of-way and along the state highways. Even though the language includes the words "as necessary," only the utility is left to decide what that means, and there is no reference to either of the statutory goals or to any purpose beyond doing what they want to do for whatever reason. Anywhere that "three phase main" distribution wires are located, all oversight by tree wardens, the DOT and property owners would be eliminated, and

PURA would have no standard by which to regulate the utilities' vegetation management practices.

B. The proposed amendments harm the interests of municipalities, the state and property owners in the public rights-of-way and the trees within the rights-of-way and on abutting private property.

The utilities do not have an ownership interest, not even an easement, in the municipal public rights-of-way, and also no ownership interest in the DOT rights-of way for state highways. Municipalities and DOT do have ownership interests. Eliminating municipal and state authority to oversee utility pruning and removal of trees within a substantial portion of their public rights-of way is an impairment of these ownership interests.

The tree canopy that borders state highways and municipal streets and roads, as well as trees on adjacent private land, provide numerous benefits, many of which are recognized as critical to mitigation of climate change and to adaptation to and resilience in coping with the effects of climate change. A goal of "No-Net-Loss" of forests, including the "urban forests" in urban, suburban and rural areas has been adopted in a number of states and is being seriously considered for Connecticut, as an outgrowth of the work of the Governor's Council on Climate Change. The benefits include:

- carbon capture to mitigate climate change
- reduction in heat island effects that occur without shade
- reduction in energy costs
- reduction in air pollution
- reduction in storm water runoff
- reduction in flooding
- reduction in erosion
- noise abatement
- improved mental and physical health
- higher property values
- higher retail business income
- habitat for birds and animals
- protection of street pavement
- traffic calming (reduction in traffic speed)
- safer communities
- attractive community character

The absence of oversight of utility pruning and removal that would result from adoption of Sections 2 and 3 of S.B. 950 would significantly increase the risk of unnecessary removals of trees and aggressive pruning by utilities. This would impair the health and structural integrity of the trees and eventually create more hazardous trees. The lost benefits from such destruction in a significant portion of the tree canopy would impose costs on the state, municipalities, residents and businesses with no compensation from the utilities and no consequences for them. In fact, they do not now have an obligation to do stump removal to allow for replanting of trees, nor do they have an obligation to plant a tree after removing or damaging a healthy and structurally sound tree.

C. The proposed amendments are not needed.

We know of no evidence that Section 16-234, C.G.S. is not working well to ensure utility reliability by tree pruning and removal pursuant to its requirements.

Eversource stated in its 2021 Line Maintenance Plan, p.4, that: "In general, tree work refusals do not represent a major obstacle to Eversource achieving its Vegetation Management goals. Objections represent a relatively small number of miles when compared to the total number of miles trimmed and the risk from trees far outside the clearance zone." (PURA Docket #20-12-44)

A review of both utilities's reports to PURA on vegetation management metrics for 2020 (Docket#20-12-44) indicates that the utilities have not been impeded in doing their pruning or in removing hazardous and even non-hazardous trees. (As discussed above, hazardous trees are already exempt from the subsection (c) notice requirements.) It appears that what is proposed to abutting property owners and to tree wardens is not often refused, and that objections and requests for modifications are resolved without requiring mediation or appeals to PURA. Certainly pruning and removals are more easily accepted if those affected can communicate with the utilities and work toward a satisfactory resolution.

Were Sections 2 and 3 of S.B. 950 adopted, however, utility pruning and removal practices would very likely be significantly less acceptable to tree wardens, DOT or property owners, who would be powerless to prevent pruning and removal that did not serve the goals of utility reliability and protection of the health and structural integrity of trees covered by the exemptions.

We respectfully request that you reject Sections 2 and 3 of S.B. 950, and thank you for your consideration of this testimony. I would be happy to respond to any questions you might have. You may contact me at gcnhtreesandpower@gmail.com.

Respectfully submitted,
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