Legislative History for Connecticut Act

PA 84-218

Act Number:	218	**Year:**	1984
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
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PART 9
3061-3455

ACTING SPEAKER MARKHAM:

The bill is adopted.

SPEAKER STOLBERG:

Will the Clerk please continue with the Call of the Calendar.

CLERK:

Calendar Page No. 484, File No. 161, Substitute for Senate Bill 56, AN ACT CONCERNING BACKBILLING FOR ELECTRIC, GAS, TELEPHONE AND WATER SERVICE WHERE A UTILITY INACCURATELY METERS THE CUSTOMER'S CONSUMPTION, as amended by Senate Amendment Schedules "A" and "B". Favorable Report of the Committee on Energy and Public Utilities.

REP. LAVINE: (100th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. David Lavine.

REP. LAVINE: (100th

I move the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. LAVINE: (100th)

Yes, Mr. Speaker. This bill says that where an

electric, gas, telephone, or water company inaccurately bills service to a customer, that there is a 6 month limitation on the liability for the customer or three billing periods, whichever is greater.

Mr. Speaker, there is an amendment, which I should like the Clerk to call, LCO 2738.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 2738, Senate "A". Would the Clerk please call and read.

CLERK:

LCO 2738, designated Senate Amendment Schedule "A", offered by Sen. Robertson of the 34th District.

In line 19, before the period, insert the following: "in which case the company may not bill or otherwise hold the customer liable for such service"

REP. LAVINE: (100th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

Mr. Speaker, I'd like to move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark?

REP. LAVINE: (100th)

Yes, Mr. Speaker. This makes it clear that the company cannot hold the customer liable for service in the case of inaccurate billing for less than six months when the energy assistance is at issue or the meter has been erroneously registered consumption. I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment? Will you remark further? If not, all those in favor of the amendment please indicate. Rep. Kemler.

REP. KEMLER: (18th)

Mr. Speaker, if I may.

SPEAKER STOLBERG:

Rep. Kemler.

REP. KEMLER: (18th)

Thank you. Through you, Mr. Speaker.

SPEAKER STOLBERG:

Please frame your question.

REP. KEMLER: (18th)

Yes. Rep. Lavine, the amendment talks about a customer, and it refers back, I believe is it to line 18 and 19 in the file copy. I don't have the amendment in front of me.

: (

Through you, Mr. Speaker, it's line 19.

REP. KEMLER: (18th)

Yes, thank you. Thank you. I have the amendment now. The amendment refers to, if I may read, "in which case the company may not bill or otherwise hold the customer liable for such service." But in the beginning of that sentence, it refers to two customers. Could you tell me which customer of the two customers is the amendment referring to? Just for clarification, please, Rep. Lavine.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

Through you, Mr. Speaker, it's the customer who would be receiving the service of the electric, gas, or water.

REP. KEMLER: (18th)

Through you, Mr. Speaker, thank you.

SPEAKER STOLBERG:

The floor is yours.

REP. KEMLER: (18th)

Yes, through you, Mr. Speaker to Rep. Lavine. Then just for purposes of clarity, the amendment which adds

another phrase to the sentence and refers to customer liable for such service is referring to the customer who received the service. Is that correct, Rep. Lavine?

REP. LAVINE: (100th)

Through you, Mr. Speaker, yes it is.

REP. KEMLER: (18th)

Thank you very much.

SPEAKER STOLBERG:

Will you remark further on the amendment?

REP. CAREY: (49th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Carey.

REP. CAREY: (49th)

Mr. Speaker, I ask to be excused due to a potential conflict.

SPEAKER STOLBERG:

The Journal will so note.

Will you remark further on the amendment? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

Nay.

SPEAKER STOLBERG:

The amendment is adopted and ruled technical. Will you remark further on the bill?

REP. LAVINE: (100th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

The Clerk has an amendment, LCO 1875.

SPEAKER STOLBERG:

Rep. Lavine, would you like to call LCO 2494 first, perhaps? Senate Amendment Schedule "B"?

Rep. Lavine, which LCO No. would you like to call?

REP. LAVINE: (100th)

LCO 2494, Mr. Speaker.

SPEAKER STOLBERG:

LCO 2494, previously designated Senate Amendment "B". Will the Clerk please call.

CLERK:

LCO 2494, offered by Sen. Larson of the 3rd District,

previously designated Senate Amendment Schedule "B".

SPEAKER STOLBERG:

Rep. Lavine, in that you've examined this one thoroughly, would you like to ask for permission to summarize it at this point?

REP. LAVINE: (100th)

Yes, Mr. Speaker, I would.

SPEAKER STOLBERG:

Is there objection? Seeing no objection, please proceed.

REP. LAVINE: (100th)

Mr. Speaker, this bill makes --

SPEAKER STOLBERG:

The amendment is what we're on. If you would summarize Senate Amendment "B", please, Rep. Lavine.

REP. LAVINE: (100th)

Alright. First I think I'll move adoption of Senate "B".

SPEAKER STOLBERG:

No, first you have to summarize Senate "B", Rep. Lavine.

REP. LAVINE: (100th)

Alright, Mr. Speaker, first I will summarize "B". Senate "B" adds the words "three billing periods" to the

language and makes it clear that the extent of the liability to the customer goes to three billing periods or six months, whichever is longer, in the case of an inaccurate billing, and it expands the liability of a customer to include acting with another person to cause inaccurate billing.

I now will move adoption, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on Senate "B"? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

Three to zero, the amendment is adopted.

Will you remark further on the bill as amended? If not, will members please be seated. Staff and guests to the well of the House. Rep. Farr.

REP. FARR: (19th)

Yes, Mr. Speaker. The Clerk has an amendment. Will the Clerk please call LCO No. 3027.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 3027, which will

be designated House Amendment Schedule "A". Will the Clerk please call.

CLERK:

LCO No. 3027, designated House Amendment Schedule "A", offered by Rep. Farr of the 19th District.

SPEAKER STOLBERG:

Rep. Farr has asked leave to summarize. Is there objection? Seeing none, please proceed.

REP. FARR: (19th)

All this amendment would do is extend the period from six months to one year. I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark?

REP. FARR: (19th)

Yes. Many of the concerns I had with the original bill have been clarified by Senate "A" and "B". The basic problem, and I don't think Rep. Lavine pointed it out, that Senate "B" now excuses a situation where the utility company does not have access to the meter. That was one of my major concerns. But I do think a year is a more reasonable time, considering the fact that oftentimes you're talking about dealing with estimated bills. I realize with these amendments on, many times

in many cases we're going to be talking about more than six months anyway. I think a one-year standard is a reasonable standard in terms of getting the billing clarified. Thank you.

REP. LAVINE: (100th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

Mr. Speaker, I would hope the House would reject House "A". In point of fact, I think six months of being misbilled is plenty. If you have to pay six months of a misbilling, or if your constituents have to pay six months of being misbilled, that seems to be sufficient. I don't understand why they should have to put up with a year of it.

After all, we have covered the utilities against every exigency. This is just plain inaccuracy, and I think that in fairness to people who have to pay these bills that we shouldn't take it beyond both what the Senate has acted on and what I hope we will act on.

REP. FARR: (19th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Farr.

REP. FARR: (19th)

Just to clarify what the bill and the amendment does. We're not talking about somebody paying a bill, we're not dealing with a situation where somebody pays a bill they don't owe. What the bill does is excuses somebody from paying for service they in fact received because they weren't billed for it. We're talking about somebody who has received a utility service and for some reason was not properly billed.

Now after six months time, you're home free and you get that service without having to pay for it. It's reasonable to set a time limit on it. I felt a one-year time limit was better than a six-month time limit. I think it's reasonable considering the cycle of energy. It's sometimes difficult to pick up those, to pick up the billing problems after six months because of the fact that you get a new tenant in a premise, and you're into a different heating cycle. You may not be able to detect those problems.

SPEAKER STOLBERG:

Will you remark further on House "A"? If not, all those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The nays clearly have it. Seven to four. The amendment is defeated.

Will you remark further on the bill as amended?

REP. TIFFANY: (36th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tiffany.

REP. TIFFANY: (36th)

Mr. Speaker, I have a question, or I guess I'm a little confused on the file. I would assume that a meter could read too much or too little. And let's say that I've been getting and using a lot more, no, I've been paying for a lot more water than I've been getting and have established a "credit" once they find the error. Does this mean that, how is that presently handled? Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

Mr. Speaker, if you have been overbilled, you will receive a credit for what you have been overbilled.

REP. TIFFANY: (36th)

Through you, Mr. Speaker, is that, when does that credit accrue? As soon as the error is found?

REP. LAVINE: (100th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lavine.

REP. LAVINE: (100th)

I'm afraid I can't give Rep. Tiffany an exact answer because the different companies treat this in different ways. There are a number of different companies involved here, but essentially they would get a credit for the period for which they have paid and not gotten their service. But I don't think I can distinguish exactly when that moment in time would be.

REP. TIFFANY: (36th)

Well, Mr. Speaker, not to belabor this, but my concern is that we be fair in each direction, and as I read this file, if you've been getting "free" water for

you cannot be billed for more than six months. And I'm equally concerned that if I've been paying more, then I would get credit for more than six months.

REP. CONN: (67th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Conn.

REP. CONN: (67th)

Thank you, Mr. Speaker. I'd just like to comment on this type of legislation. You know, we have a DPUC that I thought was supposed to be taking care of our utilities, and this appears to me to be one of those subjects which would be under their purview. And for all the money that those people are getting, I know that they have a lot of work to do, but it seems to me that we are legislating for the DPUC, and I just think that this type of legislation shouldn't be before us.

It should be before them, and if they can't do the job, then let's get somebody else to do it.

SPEAKER STOLBERG:

Will you remark further on the bill as amended by Senate "A" and "B" and House "A"? No, Senate "A" and "B", period. Not House "A". Will you remark further? If not, will all members please be seated. Will staff and guests

come to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is now voting by roll. Would the members return to the Chamber immediately. The House of Representatives is now voting by roll. Would the members return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted, and is your vote properly recorded? Have all the members voted, and is your vote properly recorded? If all the members have voted, and your votes are properly recorded, the machine will be locked, and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

Sentate Bill 56, as amendment by Senate "A" and Senate "B".

Total Number Voting	144
Necessary for Passage	73
Those Voting Yea	124
Those Voting Nay	20
Those Absent and Not Voting	7

SPEAKER STOLBERG:

The bill is passed.

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CONNECTICUT
GEN. ASSEMBLY
SENATE

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810-1226

SENATOR SCHNELLER:

Before we proceed, can I make one change in the marking. On Page five, Cal. 239, previously marked Passed Temporarily, will now be Passed Retained.

Can we have just one more change, Mr. President, Page fifteen, Cal. 323 is changed from a Go to a Pass Retain.

THE CLERK:

Mr. President, on Page two of today's Calendar, under the heading of Favorable Reports, Cal. 144, File 161. Substitute for Senate Bill No. 56. AN ACT CONCERNING BACK-BILLING FOR ELECTRIC, GAS, TELEPHONE AND WATER SERVICE WHERE A UTILITY INACCURATELY METERS THE CUSTOMER'S CONSUMPTION. Favorable report of the Committee on Energy and Public Utilities. The Clerk has amendments.

THE CHAIR:

Senator Larson.

SENATOR LARSON:

Thank you, Mr. President. Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

The Clerk please call the first amendment.

THE CLERK:

The Clerk has Senate Amendment Schedule A. LCO 2738, Senator Larson.

THE CHAIR:

Senator Larson.

SENATOR LARSON:

Yes, Mr. President. I move adoption, waive the reading and request permission to summarize.

THE CHAIR:

Without objection, you may proceed.

SENATOR LARSON:

Thank you, Mr. President. Essentially, what the amendment does here is call for an interchangeability in the billing that exists between two utility companies, and therefore allows this particular measure only to affect retail customers. And it also has a billing provision in there for utility companies so that it will not affect the utility company that does not bill on a monthly basis.

THE CHAIR:

Do you wish to remark further on the amendment? If not, all those in favor signify by saying Aye. Those opposed Nay. The Ayes have it. SENATE AMENDMENT A IS ADOPTED.

The Clerk will call the next amendment.

THE CLERK:

The Clerk has Senate Amendment Schedule B. LCO 2494, Senator Larson.

THE CHAIR:

Senator Larson.

SENATOR LARSON:

Essentially, Mr. President, both amendments are in agreement, and accomplish the same concepts here so that we are in accord on both of the amendments. I move adoption of Senate Amendment B.

THE CHAIR:

Any further comment on Senate B? If not, all those in favor signify by saying Aye. Those opposed Nay. The Ayes have it. SENATE AMENDMENT B IS ADOPTED.

Are there any other amendments.

THE CLERK:

No, Mr. President.

THE CHAIR:

We are on the bill. Senator Larson.

SENATOR LARSON:

Yes, Mr. President. On the bill itself, what this bill does is protect utility customers from being forced to pay for a utility's failure to meter properly. This rose from

response to concerns expressed by consumer counsel and others who felt that the situation could be best resolved by the bill being properly billed to the people who regulate meters themselves, that being the utility companies.

If there is no objection, I move this on today's Consent Calendar.

THE CHAIR:

Hearing no objection, the item is placed on the Consent Calendar.

THE CHAIR:

Senator DiBella, you may approach the podium.

SENATOR DIBELLA:

Thank you, Mr. President. It is indeed a pleasure today to welcome some foreign visitors from Great Britain who are here on an Exchange Program and I would ask that they step up to the podium, with Dr. Marc Clement. There are presently eight students who are here from Great Britain on an Exchange Program with the Hartford State Technical College, and we have an official citation that will be presented to them today, and the citation reads: BE IT HEREBY KNOWN TO ALL that the Connecticut General Assembly hereby offers their sincerest congratulations to the Hartford State Technical College and

SENATOR OWENS:

Yes. While the senators are coming back to the chamber, I would just like to make an announcement that after the public hearing of the Judiciary tomorrow at twelve o'clock, there will be a committee meeting and that's for the record. Thank you.

THE CHAIR:

Any other announcements? The Clerk will now call the Consent Calendar for today.

THE CLERK:

The following is a list of items on today's Consent Calendar:

Page one - Cal. 27. Page two - Cals. 144, 165 and 168. Page three - Cals. 181, 209 and 211. Page four - Cals. 232 and 235. Page five - Cals. 240, 242, 245. Page six - Nothing. Page seven - Cals. 278, 279 and 280. Page eight - Cal. 285. Page nine - Cals. 287, 288, 289, 291 and 292. Page ten - Cals. 293, 294, 295 and 296. Page eleven - Cals. 299, 300, 301, 302 and 303. Page twelve - Cals. 304, 307, 308. Page thirteen - Cals. 309, 310, 311 and 314. Page fourteen - Cals. 316, 317, 318, 319. Page fifteen - Cals. 320, 321, 322, 324. Page sixteen - Cals. 325, 328, 330. Page seventeen - Cal. 331. SB401 HB5724

SB-15, SB56, SB53, SB285, SB109, HB5410, HB5422, SB370, SB71, SB167, SB540, SB374 SB557, SB361, SB102, SB127, SB433, HB5929, HB5535, HB5540, HB5706 HB5708, HB5715, HB5371, HB5784, HB5590, HB5508, HB5686, HB5078, HB5168 HB5227, HB5549, HB5631, HB5512, HB5584, HB5700, HB5705, HB5712, HB5717 HB5709, HB5714, HB5165, HB5677, HB5147, HB5560, HB5762, HB5202, HB5520,

JOINT
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HEARINGS

ENERGY AND
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REP. ANDERSON: Just for clarification in terms of this vote, on the cancellation of Seabrook II, as I understand it, there is a required percentage and it's not 51 to 49. It's the higher percentage and that the public service company sort of holds the trump card? Rather than having a share that would be able to negate the action of all the other members; is that correct?

MR. FISCUS: Yes. In order for the unit to be cancelled, at least 80 percent of the participant's interest have to vote to cancel. Public Service of New Hampshire holds a 35 percent interest so they have veto power over that vote.

REP. ANDERSON: So this question of cancellation is somewhat academic until there is sufficient pressure brought to bear on them; right?

MR. FISCUS: Yes, yeah, there are different ways of bringing the pressure to bear, obviously and you could look--if you looked at on the face of the numbers you could say that Public Service could always veto the cancellation vote which is obviously true on the basis of the numbers. I think if there was a situation and I don't know that this will ever occur, but if the situation ever occurred or developed where the other 65 percent of the interests in the project voted to cancel, one would think that Public Service would have a tough time holding out under those circumstances.

REP. LAVINE: Thank you. Chuck Mokriski.

MR. CHARLES MOKRISKI: Mr. Chairman, members of the Committee, my name is Charles Mokriski. I'm representing the Southern Connecticut Gas Company in connection with one Bill before you today, Raised Committee Bill 56.

I'd like to caution the House Chairman that my testimony is not going to be tremendously stimulating and that if he eats that large lunch that's just been presented to him before I give it, he's liable to fall asleep right in the middle.

REP. LAVINE: (inaudible)

MR. MOKRISKI: The motivation behind this Bill which is entitled An Act Concerning Backbilling For Electric and Gas Service where a utility inaccurately meters the customer's consumption is certainly understandable. It's to protect the customer from the unpleasant surprise he would receive if suddenly it was discovered that he had been receiving service for years without paying for it or without paying fully for it.

I submit that the Bill is inadvisable for three reasons. First, it's vaguely and confusingly drawn. The word inaccurately measured is not nailed down. It doesn't mean that the gas flowing through a meter was improperly countered, improperly measured or does it mean that the gas flowing into the household being billed was in fact being properly measured but billed to the wrong household.

I think that's the situation to which the bill is addressed where there's been a cross metering. I know there have been some cases of some celebrity in the press lately. I suggest that anything that attempts to deal with this in legislation has to be a lot more precisely drawn. The words solely responsible on line 22½ is another problem. Is a homeowner solely responsible for inaccurate metering? Only if he actively takes some kind of action with respect to the meter or the piping himself or is he solely responsible if he's got the full control and dominion over his household, and there is an improperly metered service there.

How about if he moved into an apartment or the unit where the piping had already improperly been billed. Is he solely responsible for the inaccurate measuring at that time? Again, we've got a problem in the vagueness in the way the Bill is drawn.

REP. LAVINE: Chuck, I'd like to ask you a quedtion. Under all the instances you have previously described, currently, would that customer currently have to pay?

MR. MOKRISKI: I believe, under the current law, if a customer has in fact been receiving service and has been receiving it for some time, without paying for it, that he is obligated to pay it within a certain timeframe. Certainly it is bounded by the statute of limitations. I'm going to get

MR. MOKRISKI: (continued)
on to the point where in fact there is already a remedy in the law and I think it's been availed of in a couple of situations here which makes the Bill unnecessary.

REP. LAVINE: But clearly, in the decisions which the DPUC has recently held, the presumption under the law, is that the receipt of service, regardless of the responsibility (inaudible)

MR. MOKRISKI: I don't think that's been the gist of the most recent decisions on it.

REP. LAVINE: Maybe not the most recent but certainly--(inaudible)

MR. MOKRISKI: I wasn't here for Louise's testimony earlier, if she testified on this Bill. But I believe that the agency is confident that it's got the statutory and the regulatory power to address the situation.

Let me just make a couple of other points. B(2) which appears to enable the company to bill for services that have been improperly or erroneously billed, seems to take away in the unless clause, that begins on line 27, that right. In fact, it makes it impossible to collect any charges not just fail charges that are older than six months, under B(2) the way I read it. Because this is the very situation we're talking about where one household is being billed for the service being provided to another household and by introducing that clause with the word unless, it appears to say that no matter how recent the charges are if they've been sending bills to the wrong house and the householder in question is getting a bill that doesn't accurately reflect how much service he's been getting, it cannot be collected from him.

I think even more importantly than the vagueness problem in the drafting here is that the Bill really starts with an erroneous premise; that there is such a thing as a free lunch as it were; that the utility companies are deep pockets and that they can give away service without being paid. Because that's precisely what this Bill invisages. The Bill doesn't go in the other direction. It does not go to the effect of saying somebody who has been overbilled

MR. MOKRISKI: (continued)
and finds out about it, six years down the road, and can make a case for what the amount of the overbilling has been. The Bill doesn't say that that customer is unable to recoup what he has overpaid. Of course, that would be silly. I think we all believe that if a consumer can prove that he's been overbilled, he ought to be able to recoup everything.

So, it's a one way Bill. It hits the utility and by implication, not just by implication, but very directly and quickly, by operation of the fact that one and one equal two, the utility's other ratepayers in the write-offs that they're going to have to suffer through this Bill, if it were to generate a large number of write-offs.

REP. LAVINE: Is it your feeling that it would generate a large amount of revenue?

MR. MOKRISKI: I think that we only see occasional cases crop up because hopefully this is a rare situation. I would hope it doesn't and it's a theoretical impact and if--

REP. LAVINE: I think you're raising a little bit of a red herring when you suggest that we're going to have any sort of substantive impact at least from the cases that I know of that have been brought, they are the occasional (inaudible) and I would hope that from the standpoint of our major utilities, that if this came to be the law, we would not find that they had indeed made a rash of incorrect billings. I'm not suggesting that you're saying that and--

MR. MOKRISKI: Well, actually you raise an interesting problem, Representative. If in fact this becomes law, you may run into a rash of incorrect billings because there will be more tampering with meter boxes and piping services to take advantage of the safetyness that this Bill seems to point out. You're quite confident that won't occur.

REP. LAVINE: I'm quite confident that we're now in the realm of speculation that neither you or I can make any projections on and I don't see people going and tampering with meter boxes considering that that is a crime and that they then are going to be susceptible to the penal code in order

REP. LAVINE: (continued)
to take advantage of a change in the billing practice. I don't think humanity is that way and I don't think--

MR. MOKRISKI: Again, you point up an important consideration here. The gas company or the electric company, for that matter, has the power to effect what happens in a service only up to the meter and not beyond it so that if an installer of an electric dryer comes in and installs an electric dryer in a household and hooks it up to the wrong line, and has the gas running through the neighbor's or the landlord's or the tenant's meter instead, there's really nothing the gas company can do about that other than to react and deal with the situation once it's called to its attention.

And that really leads me to the third thing. I don't think the Bill is necessary. We have, in the regulations, of the DPUC right now, bill dispute resolutions mechanisms whereby a customer may dispute any portion of the bill. In the recent case you spoke of, and I don't have the docket and I just learned about it today, Representative, the customer had found out that he'd been receiving either free or under-priced services for a good period of time and there would have been, theoretically, a large balance owing to the utility company, because his neighbor was being billed improperly for his service.

The DPUC consumer section took that under advisement and construed that he could not be charged for a period further than one year back because it would be inequitable to do it. The man had taken greater conservation measures and as this Bill points out, with a hardship consumer he may have been able to apply for energy assistance and any number of ways in which the consumer would be prejudiced and the DPUC has asserted and perhaps we have to wait what the final determination will be with the DPUC. Its asserted power to do equity, to do fairness to a consumer under existing regulations. I submit that because we have these existing regulations that they're taking care of the problem and we shouldn't try to draft something which is obviously difficult to draft, if the quality of this draft is any gauge.

Mr.--the Connecticut Natural Gas Lobbyist who was here waiting to speak had to go to another engagement and asked

MR. MOKRISKI: (continued)
me associate himself the considerations I pointed out to the Committee on the Bill and it will save you a little time later on.

REP. LAVINE: Thank you. Anybody else have any quick questions? Thank you. Okay, John Majkowski.

MR. JOHN MAJKOWSKI: Thank you, you did very well. Again, my name is John Majkowski and I work for the United Illuminating Company and am Vice President for Public Affairs.

This afternoon, I'd like to address Senate Bill 56, An Act Concerning Back Billing for Electric and Gas Service Where a Utility Inaccurately Meters the Customer's Consumption.

The company is very troubled by this Bill which recognizes that the benefit or value of service has been provided to the customer but is depriving the company of its right to bill for that service rendered. Currently, when situations like this occur and the company renders a bill for total back service, it does recognize that sometimes the bill cannot be paid in full in one payment and negotiates an amortization agreement with customers, thus, alleviating the burden on the customer. In fact, for residential customers, the period over which payment is arranged can extend up to an amount of time equivalent to that during which the problem existed.

Another aspect of the Bill is that it asks a company to be perfect. This goes far beyond the concept of reasonable and prudent. Evidentally, the old maxim to err is human and to forgive divine, is most applicable in this instance. I am making the assumption the legislature is not divine.

Another concern of this proposed legislation is the concept the company cannot bill unless the customer is solely responsible for the error. A less onerous provision would be "unless the customer has no responsibility or involvement in the inaccurate billing."

Finally, the Bill gives no consideration to the complexity of a meter hookup. It is equally applicable to both a complex hookup like a totalizing meter with dual feeds and

MR. MAJKOWSKI: (continued)
a straight forward single dial residential meter.

In conclusion, the company urges rejection of this Bill for the reasons cited above and especially since service was provided and that service should be paid for. Thank you.

REP. LAVINE: We really have somewhat of a philosophical difference here and not a difference of facts. If some-
Cass #8 body really does not know that he is being charged for electricity or gas and is getting the product but does not know and the company is responsible for the incorrect metering (inaudible) that's one thing. Or if the-- something has happened which is beyond the company's control, your point is simply smite that and the customer still has to assume that responsibility. He's gotten that product - as I understand it.

MR. MAJKOWSKI: Correct.

REP. LAVINE: And I can tell you that there are cases where customers have informed the utility that they think they're not being billed at the proper rate; have gotten no response, and then finally there is a somewhat more substantial period of time and the company sees the error and bills the person entirely for the period of time. Do you also feel that that--having informed the company as a--that they think the billing--perhaps the company has been told and has neither responded, in this particular case the company responded and said no, we think it's right and then subsequent to that, though they were wrong, and said you still have to pay the whole cost.

MR. MAJKOWSKI: That's an interesting concept and if I were a customer and it were my home and my two sons were still at home and I reported to the company that the consumption on the meter is less than what I feel I'm actually consuming--this is the situation that we're talking about here--

REP. LAVINE: That the billing is incorrect. I'm not sure whether this particular party looked at the meter, but felt that the cost of what they were paying were too low for the electricity they were consuming.

MR. MAJKOWSKI: Okay, but let me answer both questions. If it were the case where the bill were calculated incorrectly, in the sense that when they multiplied the kilowatt hours times the rate and the customer came back and said you did this wrong and the company says no, I did it right, I would accept the receipt of paid in full and walked out the door myself.

If it were a matter of the customer coming to the company and saying I feel my meter is not registering all the kilowatt hours I'm consuming, a very unusual complaint, but if it did happen where this person came to the company and said you're charging me for fewer kilowatt hours then I'm using and later on the company were to discover that there was a meter fault in the meter, I would think that again, the customer, in this case not only knew they were using the service over and above what they were being billed for and in essence, since they are going to gain the time value of the money, they're going to use the service and maybe for six months or eight months before they have to pay the bill. But they knew they were consuming those kilowatt hours.

REP. LAVINE: So the company has no responsibility even though it was pointed out; didn't find it? The person is totally at risk under those circumstances. They did make good effort.

MR. MAJKOWSKI: Well, in this case, I'm sure that the time period over which they were--let's just say the customer is being underbilled $10.00 a month and this went on for eight months, you'd be talking about $80.00.

REP. LAVINE: In point of fact, it was substantially more because it was somebody who converted to electric heat.

MR. MAJKOWSKI: If the customer were being undercharged $100.00 a month and this went on for eight months, for that eight months, the customer had the service and did not have to pay out the money. I would think in fairness, that if the customer had gone to the utility on their own, that it would then be over a subsequent eight month period that the customer would then pay back the $800.00. In other words, the length of time that it took him to build it up.

REP. LAVINE: And it would make no difference to you how long that period had extended?

MR. MAJKOWSKI: As long as it didn't exceed the time period of the error. Within the law--I mean I don't know what the statute of limitations is.

REP. LAVINE: I myself find that--I understand the law. That's the way the law is--absolutely. It doesn't matter how much per month, over what period of time, the company can collect it all back. That's what the law says and what this says is that that isn't fair and I understand your position but I also think that you're not.

MR. MAJKOWSKI: Well, my response would also be that the current regulatory practices allow, shall we say, unusual cases. I would say that if a customer had come in one month--say he bought a brand new home in 1969 and a month later went into the utility and said I cannot believe I'm using 100 kilowatt hours a month. I must be using more, using more, and the utility says no, your meter is correct and then eight years went by. Within an eight year period, the meter would have to be tested and at that point in time, the utility discovered that indeed the meter was underrecording. I would strongly suspect that that back billing would be brought before the DPUC through the regulatory process and the customer would make certain that the DPUC knew that they had notified the company some eight years prior that there was something wrong with the meter and I would be quite surprised if the DPUC would allow the company to back bill, for the full eight year period.

Whereas this precludes it, regardless of what the situation is, regardless of the time period.

REP. LAVINE: Do you think--let me take it a step further. Do you think the person is right; let's use your example of the eight year period, and, regardless of what the DPUC will find, we're now talking as a company spokesman; is it your judgment that that person should not be charged for that period of time, the full eight years; do you agree with the DPUC? In that regard.

MR. MAJKOWSKI: With that respect where the customer brought it

MR. MAJKOWSKI: (continued)
to the company's attention and the company then did not come out and check the meter? Yes, I would agree with DPUC action.

REP. LAVINE: So at least we narrowed the difference between ourselves on the Bill.

MR. MAJKOWSKI: To that extent, yes. If the customer has notified the company and the company has taken no action.

REP. LAVINE: Any other questions?

REP. ARTHUR: How frequently does this happen; how many times a month, a year? What kind of incidences are we talking about?

MR. MAJKOWSKI: It doesn't happen with great frequency. We recently submitted a report to the Customer Assistance Division of the DPUC and I would probably say, over an 18 month period, 15 or 20. I can verify that.

REP. ARTHUR: Are you talking less than one a month? Is that what you're saying?

MR. MAJKOWSKI: That's correct.

REP. ARTHUR: What kind of dollar amounts are we talking about?

MR. MAJKOWSKI: They can range. They can go from small dollar amounts to $100 or $150 or into the hundreds of thousands, depending on what type of customer and how long it had been outstanding.

REP. ARTHUR: Hundreds of thousands?

MR. MAJKOWSKI: Correct. We've had two.

REP. ARTHUR: And you're talking residential?

MR. MAJKOWSKI: These are commercial. These are not residential. I don't think a residential would spend much over a thousand.

REP. ARTHUR: Thank you.

REP. LAVINE: Thank you. Ann Cicchetti. Barry, we have you next, but it was your intention to go after everybody and we may--Helen Burns? I think for you I'm going to bring my--

MR. BARRY ZITSER: First of all, I'd like to respond to two items that came about before I comment on all the Bills. Representative Arthur, it is true that nuclear power plants that are now producing electricity product it at a lower rate than the oil powered plants, somewhere in the range of two to two and a half cents per kilowatt hour. I believe, however, that it's wrong for Northeast Utilities to say that they are saving their customers money as a result of building these nuclear plants.

The reason I believe it's wrong for them to say it is because they made the initial decision to build the oil fired plants that are being displaced by the nuclear plants. It would be more appropriate for them to say we are saving customers from some of the hardships of our earlier decisions. Now, Millstone III isn't goin g to fall within the area of saving customers money. It's going to be more in the range of over 20 cents per kilowatt hour.

REP. ARTHUR: That remains to be seen.

MR. ZITSER: Also, the statement by Mr. Fox that the company may not be filing annual rate relief. When I stated that Northeast Utilities is now preparing a rate application, it was based on the sworn testimony of Mr. Fox and other Northeast Utilities witnesses in the last rate case that they would be seeking annual rate relief with the same timing that they have over the past several years, like clockwork.

It was based on those sworn testimonies that I made my statement and in addition, when he stated what would be the impact of denying the $65 million phase in over a five year period, he indicated they would have to request a three year phase in which would be well over $100 million a year. On the basis of their sworn testimony in the last rate case, I made my statement that they are now preparing their rate application. However, it's nice to see that they're so healthy that they can now despite their testimony which helped to get them CWIP, say that they don't

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MR. DE JOSEPH: I wish you called me when he was here. I was looking at him. I wanted him to hear this.

SEN. LARSON: But I think that the question is duly put before the Department of Public Utility Control that if you have been as, to paraphrase what you said, been robbed for the last 8 years by paying excessive amounts, then certainly you ought to be entitled to a just and fair hearing on the part of the DPUC and if in fact that is the case, awarded that money. But the man to see would be Comm. Downey of the DPUC.

I might add also that we have a bill currently before us (SB 56) that is a raised committee bill and will be heard for come before our committee Wednesday for JM, and that concerns the problem that you discussed and that would be in the case where utilities have wrongfully charged or people have overpaid previously, utilities have been able to go back as you indicated ad infinitum. And our bill would limit that to a 6 year period.

MR. DE JOSEPH: It goes back 6 years.

SEN. LARSON: If they made the mistake.

MR. DE JOSEPH: How come it only goes back 6 years? When somebody steals electricity from them they go back as many years as they can.

SEN. LARSON: Not anymore.

MR. DE JOSEPH: Not anymore. Since when? I've been arguing since 1975.

SEN. LARSON: Well, this is a bill, as I indicated that's before us. But I think that if you would probably be best taking your concern at this time. I realize you've spoken to the DPUC, but I think if you're looking for answers tonight, that would be the best that we could advise you in terms of direction at this particular point.

MR. DE JOSEPH: What does that mean? I got to talk to him? Every time I call the Department of Public Utilities this Joan Downes won't let me talk to anybody. You mean I can go over and talk to him?