



Connecting people to the land since 1895

16 Meriden Road
Rockfall
Connecticut 06481-2961
Tele: 860-346-TREE
www.ctwoodlands.org

Testimony of Eric Hammerling, Executive Director, Connecticut Forest & Park Association

Public Hearing Subject Matter	Position
Raised HB 5108: AAC THE PROCESS FOR OBJECTING TO ACTIONS TAKEN BY UTILITY COMPANIES PURSUANT TO A VEGETATION MANAGEMENT PLAN.	Support

The Connecticut Forest & Park Association (CFPA) is the first nonprofit conservation organization established in Connecticut in 1895. For over 128 years, CFPA has offered testimony before the General Assembly on various State Park and Forest, trail recreation, sustainable forestry, and land conservation issues.

I want to thank the Committee for raising HB 5108. Vegetation management is statutorily defined in C.G.S. §16-234(a)(4) as “the retention of trees and shrubs that are compatible with the utility infrastructure and the pruning or removal of trees, shrubs or other vegetation that pose a risk to the reliability of the utility infrastructure. Until such time as the Department of Energy and Environmental Protection issues standards for identifying such compatible trees and shrubs, the standards and identification of such compatible trees and shrubs shall be as set forth in the 2012 final report of the State Vegetation Management Task Force.”

I chaired the 2012 State Vegetation Management Task Force, which had a goal of balancing reliable electricity with a healthy roadside forest, and have years of experience working with electric utilities, tree wardens, arborists, foresters, tree advocates, and community leaders on these issues. This is complicated, especially if you want to find a balanced, common ground that various interests can accept, and it is challenging to address only one aspect of Section 16-234 (objecting to actions taken by utility companies) without considering many others it will impact.

The current law embodied in C.G.S. §16-234 was updated in 2013 and 2014 after significant good-faith negotiations with representatives from Eversource and United Illuminating. This legislation established a Utility Protection Zone (defined as “any rectangular area extending horizontally for a distance of eight feet from any outermost electrical conductor or wire installed from pole to pole and vertically from the ground to the sky”) where utilities were encouraged to perform ongoing maintenance (despite being on private land and/or a municipal or state right of way), and a process was articulated for utilities to inform and work with tree wardens, abutting and private landowners, and their communities in advance of conducting ongoing vegetation management.

Since that time, at CFPA we have heard from utilities, municipal tree wardens, private landowners, municipal officials, legislators, and tree conservation advocates that there are opportunities to improve this process. However, there continue to be many different thoughts on what would be the best way to make improvements. I’ll summarize some of the comments we have heard over time from key participants in this process (offered in alphabetical order):

Abutting landowners and community members have suggested that:

- They didn’t realize that vegetation management was planned for their community until it was in process;
- Community members were frustrated to learn that they didn’t have “standing” to object or ask for modifications to vegetation management plans if they weren’t an abutting landowner;

- Abutting landowners objected and asked for modifications to vegetation management on their property that was either contested or implemented with various levels of satisfaction;
- In some instances, abutting landowners were told by a contractor working for a utility that they would be personally responsible if their tree(s) was/were responsible for an outage;
- Some landowners felt unqualified to object even though they had concerns because they were overwhelmed by the thought of opposing a utility with significant legal, arboricultural, and other resources at their disposal;
- Some landowners wished they had more time to object, and were concerned that if the required notice came while they were away (as an example), they could return home to a loss of trees which could diminish the value of their property. In 16-234, “A utility shall deliver such notice to the abutting property owner or private property owner at least fifteen business days before the starting date of any such pruning or removal.”

Municipal tree wardens have suggested that:

- They have inadequate local resources to manage trees and are often reliant on utilities to pay for as much vegetation management as possible;
- Because of the lack of resources, they have prioritized removals of hazardous trees, and rarely have time or resources for stump-grinding, replanting, and tending to existing trees to keep them healthy;
- They wrestle with keeping public roads safe knowing that various landowners utilize a broad spectrum of approaches to caring for trees on their properties and have varying ability to pay for maintaining trees;
- They often don’t have a good inventory of their roadside trees, the health of those trees, and a plan for replanting if/when planned removals or storm events occur.

Tree conservation advocates have suggested that:

- Healthy trees provide many socioeconomic, aesthetic, habitat, climate, and other benefits;
- Healthy trees (especially those outside of the UPZ defined in 16-234) should not be removed because of the benefits that they provide;
- In PURA’s final decision issued in [Docket 18-12-25](#), UI-Avangrid was found to be misusing the authority it was given under 16-234(e) to respond to emergencies. 16-234(e) allows utilities to forgo notice requirements to address emergencies where tree branches may be “in direct contact with an energized electrical conductor or has visible signs of burning.” Having an emergency provision like 16-234(e) is reasonable; however, UI was consciously delaying regular maintenance, allowing trees to grow into wires, and then conducting utility clearance without providing notice. PURA ordered UI-Avangrid to cease using this emergency authority as a way around providing regular notice and conducting scheduled vegetation management within the UPZ.
- Advocates expressed concern in several communities impacted by [Eversource’s announcement](#) in June, 2022 that it would initiate efforts to remove trees (including healthy trees) outside the UPZ in a newly described “fall zone.” Although this was put forward as a pilot project, this could represent a significantly more aggressive approach to tree removal that imperils many more healthy trees than it should;
- There is an overemphasis in electric utility budgets that focus on tree removal versus other necessary actions to retain tree health, replanting, planning for a community’s future healthy roadside forest;
- Alternatives to the traditional pole and wire infrastructure, such as undergrounding and/or hardening certain wire infrastructure, would be more resilient and less expensive if planned now and implemented over time. Perhaps this could be done opportunistically in some communities when other underground infrastructure (water, sewer, fiber optic, natural gas, etc.) is being replaced, repaired, or installed.

Utilities have suggested that:

- It is time-intensive and expensive to both inform and negotiate with individual landowners who occasionally object to their vegetation management plans and implementation;
- There are considerable expenses associated with paying for police overtime, traffic control, and other expenses that could otherwise be dedicated to more or better vegetation management;
- There are issues with trees, including healthy trees, outside of the UPZ that can be the source of future conflicts with their pole and wire infrastructure;
- Alternatives to the traditional pole and line infrastructure, such as undergrounding, are too expensive to consider in most situations; and
- There are high expectations of electric reliability amongst citizens, public officials, and others – even during storms – that makes their job both critically important and challenging.

Of course, what I include above is much more than what you are considering in HB 5108 as a broad concept bill. However, if the Committee uses this opportunity to make improvements to 16-234, we suggest the following for your consideration:

1. Tighten 16-234(e) through codification of PURA orders in Docket No 18-12-25 (effectively adding parameters for permitted trimming when any part of a tree is in direct contact with an energized electrical conductor or has visible signs of burning). Specifically:
 - Disallow the use of the emergency exception to perform non-emergency work; and
 - Ensure only the minimum amount of pruning is used to resolve a situation with tree limbs touching wires.
2. Disallow cost recovery by utilities from ratepayers for removal of trees outside of the statutory 8' utility protection zone (UPZ). This would send a strong signal that the focus should be on removing hazardous trees, and not healthy trees outside the UPZ that provide so many community benefits.
3. Although we support the concept of increasing the time available for abutting landowners or private landowners to object or suggest a modification to a vegetation management notification, we don't have a specific recommendation for expanding upon the existing timeframes included in 16-234.

Thank you again raising this bill and the opportunity to provide comments. I'd be glad to respond to any questions you may have.