

# STATE OF CONNECTICUT



*AUDITORS' REPORT  
DEPARTMENT OF PUBLIC UTILITY CONTROL  
AND  
OFFICE OF CONSUMER COUNSEL  
FOR THE FISCAL YEARS ENDED JUNE 30, 2006 AND 2007*

**AUDITORS OF PUBLIC ACCOUNTS**  
KEVIN P. JOHNSTON ❖ ROBERT G. JAEKLE

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January 8, 2010

**AUDITORS' REPORT  
DEPARTMENT OF PUBLIC UTILITY CONTROL  
AND  
OFFICE OF CONSUMER COUNSEL  
FOR THE FISCAL YEARS ENDED JUNE 30, 2006 AND 2007**

We have examined the financial records of the Department of Public Utility Control and the Office of Consumer Counsel for the fiscal years ended June 30, 2006 and 2007. This report on our examination consists of the Comments, Recommendations and Certification that follow.

The financial statement presentation and auditing of the books and accounts of the State are done on a Statewide Single Audit basis to include all State agencies including the Department of Public Utility Control and the Office of Consumer Counsel. This audit examination has been limited to assessing compliance with certain provisions of financial related laws, regulations, contracts and grants, and evaluating both agencies' internal control structure policies and procedures established to ensure such compliance.

**DEPARTMENT OF PUBLIC UTILITY CONTROL  
COMMENTS**

**FOREWORD:**

The Department of Public Utility Control (the Department) operates primarily under Title 16, Chapters 277, 281 through 284, and 289 of the General Statutes, and is under the direction of the chairperson of the Public Utilities Control Authority as provided for in Section 16-1b of the General Statutes. The chief administrative officer of the Department is the executive director, who is appointed by the chairperson, in accordance with Section 16-2, subsection (f), of the General Statutes.

The Department has primary regulatory responsibility for investor-owned electric, gas, water, telecommunications and cable television companies in Connecticut. Decision-making responsibility resides with the Public Utilities Control Authority.

Costs and industry assessments, which can be expended only by appropriations of the General Assembly, are accounted for by the Department in the Consumer Counsel and Public Utility Control Fund, a special revenue fund, according to Section 16-48a of the General Statutes. According to this Section, amounts in this fund may be expended only pursuant to appropriation by the General Assembly, and any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund to the succeeding fiscal year.

Significant legislation affecting the Department during the audited period included the following:

- Public Act 05-251, Section 60, subsection (c), effective July 1, 2005, directs the Commissioner of Administrative Services, in consultation with the Secretary of the Office of Policy and Management, to develop a plan whereby the Department of Administrative Services (DAS) would merge and consolidate personnel, payroll, affirmative action, and business office functions of selected executive branch agencies within DAS. The Department of Public Utility Control was one of the agencies selected for consolidation of its personnel, payroll, and affirmative action functions.
- Public Act 07-152, among other things, restores funding for electric conservation and clean energy funds and established new energy efficiency programs and tax incentives for energy efficiency and renewable energy. It also modifies how electric companies procure power for their large customers and requires the DPUC to study procurement options for the service the companies provide to their small and medium-sized customers.
- Public Act 07-253 requires companies, other than cable TV companies and their affiliates, that provide video programs to be certified by the DPUC. The Act establishes two non-lapsing General Fund accounts, one to provide property tax relief for municipalities and the other to provide funding for community access and for education technology. It funds the first account with up to \$5 million per fiscal year from the gross earnings tax. It funds the second account with a new tax on the gross earnings of cable TV, direct broadcast satellite, and other providers, known as the “public, educational and governmental programming and educational technology investment account” (PEGPETIA). The moneys in this account shall be expended by the DPUC as follows: fifty percent shall be available to local community antenna television and video advisory councils; public educational and governmental programmers and public, educational and governmental studio operators to subsidize capital and equipment costs related to producing and procuring such programming, and fifty percent shall be available to boards of education and other education entities for education technology initiatives. The Act requires any entity, other than a cable TV company or its affiliates, that seek to provide video services to file a certificate application with the DPUC. The application costs \$1,000.

**PUBLIC UTILITIES CONTROL AUTHORITY:**

The Authority is comprised of five members appointed by the Governor with the advice and consent of the General Assembly. As of June 30, 2007, the members were as follows:

	<u><b>Term Expires June 30,</b></u>
Donald W. Downes, Chairman	2009
John W. Betkoski, III, Vice Chairman	2009
Anne C. George (resigned effective October 31, 2008)	2011
Anthony J. Palermino	2011

There was one vacancy as of June 30, 2007.

Donald W. Downes continued to serve as Chairperson of the Authority during the audited period.

William Palomba continued to serve as Executive Director of the Department during the audited period.

**RÉSUMÉ OF OPERATIONS-DEPARTMENT OF PUBLIC UTILITY CONTROL (DPUC):**

A comparative summary of receipts credited to the Consumer Counsel and Public Utility Control Fund for the fiscal years ended June 30, 2006 and 2007, is as follows:

	<b>Fiscal Year Ended June 30,</b>	
	<u><b>2006</b></u>	<u><b>2007</b></u>
Public service company assessments	\$18,724,277	\$22,186,950
Other receipts	<u>275,300</u>	<u>238,273</u>
<b>Total Receipts</b>	<u><b>\$18,999,577</b></u>	<u><b>\$22,425,223</b></u>

Receipts consisted primarily of assessments received from public service companies for the costs of operating the Department of Public Utility Control and the Office of Consumer Counsel. In accordance with Section 16-49 of the General Statutes, each public service company having more than one hundred thousand dollars of gross revenue in the State must pay its share of all the expenses of the Department and of the Office of Consumer Counsel. Each company shall pay the Department an estimated payment for the expenses of the following year equal to 25 per cent of its assessment for the fiscal year ending on such June thirtieth, and 25 percent of the proposed assessment on September 30<sup>th</sup>, December 31<sup>st</sup>, and March 31<sup>st</sup>. Also in accordance with Section 16-49 of the General Statutes, the September 30<sup>th</sup> payment shall be adjusted to reflect and credit any amount due under the recalculated assessment for the preceding year. The recalculated assessment is based on the actual expenses of the Department and is calculated after the close of the fiscal year.

Assessment revenue increased \$417,799 and increased \$3,462,673 during the 2005-2006 and 2006-2007 fiscal years, respectively, as compared with the 2004-2005 fiscal year assessment

revenues which totaled \$18,306,478. Increases and decreases in assessment revenue are a function of the net increases or decreases, from one fiscal year to the next, in Departmental budgeted appropriations and net expenditures. Variances between gross assessments and assessment revenue are mainly due to timing differences, as the first bill is due prior to the start of the fiscal year being assessed. Other receipts included fines and costs, refunds of prior year expenditures, and miscellaneous fees.

As of June 30, 2007, the available cash balance of the Consumer Counsel and Public Utility Control Fund was \$8,532,048.

In addition to the receipts deposited to the Consumer Counsel and Public Utility Control Fund, and to the General Fund, the DPUC also deposited receipts totaling \$363,877 and \$377,611 to "Grants and Restricted Accounts Fund" in the 2005-2006 and 2006-2007 fiscal years, respectively, consisting of receivables collected for the "Gas Pipeline Safety"/Call Before You Dig" Federal Grant program (CDFA #20.700). Under this program, the Federal Department of Transportation's Office of Pipeline Safety reimburses the DPUC up to 50 percent of the actual cost, including the cost of personnel and equipment, up to a maximum dollar amount according to the grant agreement. Included in the Federal program is a separate grant amount for the "Call Before You Dig" program, which provides a toll-free number for the public to call before digging in the area of underground utilities.

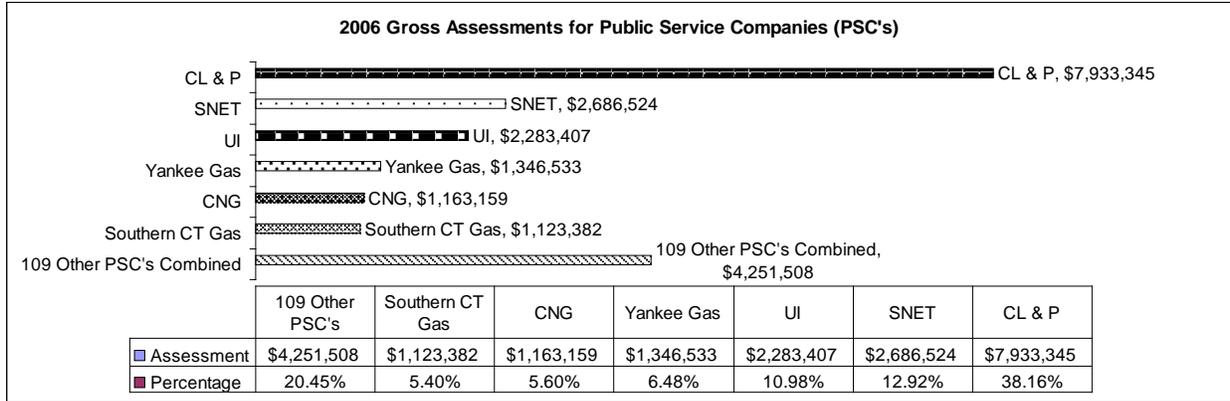
General Fund receipts totaled \$138,861 and \$172,206 for the fiscal years ended June 30, 2006, and 2007, respectively, and primarily represent fines collected for violations of the "Call Before You Dig" regulations, and miscellaneous receipts.

Lastly, under the Nuclear Safety Emergency Preparedness program established by Section 28-31 of the General Statutes, the DPUC deposited receipts for the Department of Emergency Management and Homeland Security, totaling \$697,249 and \$67,046 in fiscal years 2005-2006 and 2006-2007, respectively. However, during the fiscal year ended June 30, 2007, an additional \$1,404,372, which should have been processed by the DPUC, was directly received and deposited by the Military Department. This program and transaction are discussed in further detail in the "Condition of Records" section of this report.

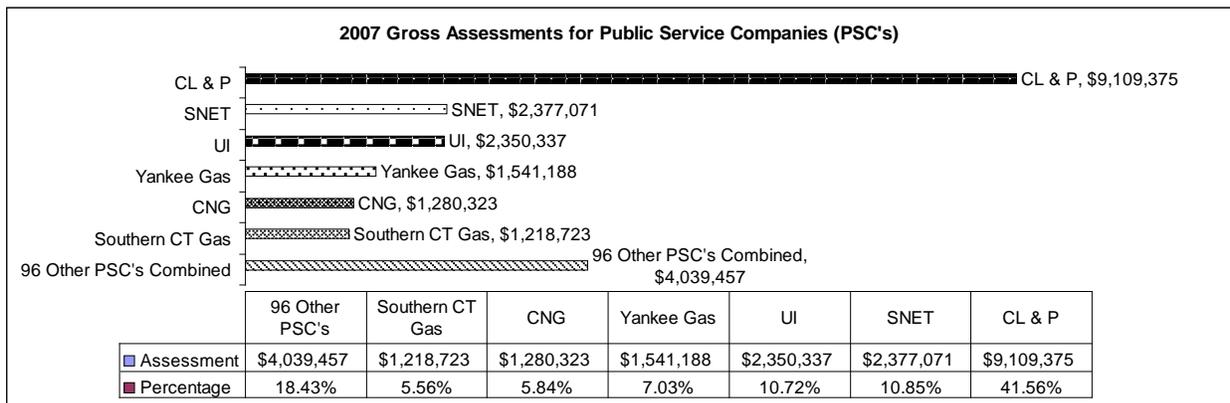
The total gross assessments (equal to the budgeted appropriations for the DPUC, and the Office of the Consumer Counsel) were \$20,787,858 and \$21,916,474, for fiscal years 2005-2006 and 2006-2007, respectively. By Statute, the gross assessment each fiscal year is allocated to individual companies based on the gross revenues of all public service companies. Public service companies reported gross revenues of \$6,295,828,846 and \$7,157,233,096, for the 2005-2006 and 2006-2007 fiscal years, respectively. Because assessments are based on gross revenues, the source of the Department's funding has increasingly become concentrated among a few public service companies. During the fiscal years audited, the largest individual gross assessments were the Connecticut Light and Power's in the amount of \$7,933,345 and \$9,109,375, which comprised about 40 percent of the total assessment. In total, a little over 100 public service companies were assessed each fiscal year. Six of these public service companies were billed for approximately 81 percent of the total assessment.

The total gross assessments for the audited period are presented below:

Gross Assessments for the 2006 Fiscal Year;



Gross Assessments for the 2007 Fiscal Year;



A summary of DPUC expenditures from the Consumer Counsel and Public Utility Control Fund for the audited period is presented below:

	<b>Fiscal Year Ended June 30,</b>		
	<b><u>2005</u></b>	<b><u>2006</u></b>	<b><u>2007</u></b>
Personal services	\$9,525,808	\$9,535,355	\$10,002,220
Other Expenses	1,714,668	1,774,688	1,724,301
Equipment	107,372	27,343	71,300
Fringe Benefits	4,867,467	5,232,776	5,515,486
Indirect Overhead	(37,768)	146,555	72,609
<b>Total Expenditures</b>	<b><u>\$16,177,547</u></b>	<b><u>\$16,716,717</u></b>	<b><u>\$17,385,916</u></b>

Total expenditures increased by \$539,170, or three percent, in fiscal year 2005-2006 as compared to fiscal year 2004-2005. Higher fringe benefits and indirect benefit expenditures accounted for most of this increase. Total expenditures increased by \$669,199, or four percent, in fiscal year 2006-2007 as compared to fiscal year 2005-2006. Higher personal services costs and related fringe benefit costs accounted for most of this increase. The Department's filled positions totaled 135 as of June 30, 2007; down slightly from the June 30, 2005 level of 140.

Expenditures for Fringe Benefits increased \$365,433 in the fiscal year 2005-2006 over 2004-2005 levels, primarily as a result of increased expenditures to the State Employees' Retirement System (SERS). In fiscal year 2006-2007, fringe benefit expenditures increased by \$282,586 over fiscal 2005-2006 levels largely due to higher medical insurance payments and increased expenditures to SERS.

Federal Fund (#12060) expenditures during the audited period totaled \$363,837 and \$350,339 for the fiscal years 2005-2006 and 2006-2007, respectively, and were primarily for personal services, related employee fringe benefits, and indirect overhead paid from a Federal contribution account for the "Gas Pipeline Safety"/"Call Before You Dig" program.

## CONDITION OF RECORDS

Our audit of the Department of Public Utility Control's records disclosed the following areas that require improvement.

### **Use of the Equipment Appropriation:**

*Criteria:* Section 4-97 of the General Statutes states: "No appropriation or part thereof shall be used for any other purpose than that for which it was made unless transferred or revised as provided in Section 4-87."

The State Accounting Manual states that the "equipment" appropriation is to be charged for the purchase of items meeting the definition of equipment, which is property having a value of one thousand dollars or more.

*Condition:* In our test of expenditures for the fiscal year ended June 30, 2006, totaling \$59,058, we found the DPUC purchased items costing \$5,400 that were erroneously charged to the equipment account. Specifically, we found an expenditure for eight hard drives costing \$675 each, which were under the \$1,000 threshold for capitalization.

*Effect:* Section 4-97 of the Connecticut General Statutes and the State Accounting Manual were not complied with.

*Cause:* The cause was not determined.

*Recommendation:* The Department of Public Utility Control should comply with Section 4-97 of the General Statutes and charge the "Other Expenses" appropriation, when purchasing non-capitalized equipment. (See Recommendation 1).

*Agency Response:* "The Department agrees with this recommendation and has taken the necessary steps to ensure expenditures are attributed to the proper allocation."

### **Use of Core-CT for Assessment Billings and Accounts Receivable:**

*Criteria:* Beginning with the fiscal year ended June 30, 2004, the State Comptroller instituted a new accounting system, Core-CT. Within the capabilities of Core-CT are a billing module and an accounts receivable module.

*Condition:* The Department of Public Utility Control does not use Core-CT to process its assessment billings and receivables. During the audited period, the DPUC continued to rely on Excel spreadsheets to bill and account for its assessment billings and receivables.

## ***Auditors of Public Accounts***

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- Effect:* The functionalities in Core-CT are not being fully utilized. Internal control over billings and receivables is potentially lessened.
- Cause:* The Department investigated the possibility of processing its assessments billings through Core-CT but encountered some technical issues and did not pursue it after that. The Department claims that it is unable to set the due date to meet the statutory requirements.
- Recommendation:* The Department of Public Utility Control should utilize the billing and receivable functions of the Core-CT system to process its assessment billings and receivables. (See Recommendation 2).
- Agency Response:* “The Department agrees with this finding that the functionalities in Core-CT could provide efficiencies. The agency will attempt an initial phase-in of its assessment billing process through Core-CT. Due to concerns about Core-CT’s adaptability to meet the statutory requirements of the agency, the current process may need to run concurrently with the phase-in to provide quality assurance.”

### **Assessment Billing Issues:**

- Criteria:* Section 16-49, subsection (3) (b), of the General Statutes states that “...on or before May first...each company shall report its intrastate gross revenues of the preceding calendar year to the Department, which amount should be subject to audit by the Department. For each fiscal year, each company shall pay the Department of Public Utility Control the company’s share of all expenses of the Department and the Office of Consumer Council for such year.”
- Condition:* We noted two conditions with respect to the assessment billing process:
- The Department of Public Utility Control does not have a uniform process to obtain the intrastate revenue information from companies. Presently, revenue figures are obtained from various sources and in various formats.
  - There is no managerial approval of the final assessment amounts after the revenue figures are obtained and used in the calculation of the companies’ share of DPUC expenses.
- Effect:* The internal control over the assessment calculation process is potentially lessened.
- Cause:* The cause was not determined.

*Recommendation:* The Department of Public Utility Control should develop a standard form for companies to use to comply with the reporting requirements of Section 16-49, subsection (3) (b), of the General Statutes, and provide for managerial approval of the companies' final assessments. (See Recommendation 3).

*Agency Response:* "The Department agrees with the potential negative effect presented in this recommendation. While it is understood that a need exists for a uniform process, creation of a standard form for all utilities may be difficult to accomplish as the revenue disclosed by regulated companies varies in nature among industries. Development of forms for applicable industries, along with a formal managerial review process, will be pursued."

**Administration of the Nuclear Safety Emergency Preparedness Program:**

*Criteria:* Section 28-31 of the Connecticut General Statutes requires the DPUC to establish a nuclear safety emergency preparedness account, which shall be a separate, non-lapsing account within the General Fund (now the Federal and Other Restricted Accounts, 12060 Fund), and which shall be financed through assessments of all Nuclear Regulatory Commission licensees that own or operate nuclear power generating facilities in the State. The Department may assess licensees for such amounts as necessary for the purposes of the account, provided the balance in the account at the end of the fiscal year may not exceed three hundred thousand dollars. Moneys in the account shall be expended by the Commissioner of Emergency Management and Homeland Security, in conjunction with the Commissioner of Environmental Protection, only to support the activities of a nuclear safety preparedness program, and only in accordance with the plan approved by the Secretary of the Office of Policy and Management.

*Condition:* We found several conditions relating to this area. Beginning in fiscal year 2005-2006, the Military Department (later the Department of Emergency Management and Homeland Security (DEMHS)), began to bill the DPUC for these funds, and the DPUC then billed the nuclear power generating facilities and deposited these receipts in the "Funds Awaiting Distribution" fund, and not directly to the General Fund restricted account (now the Federal and Other Restricted Accounts Fund), as was done in previous fiscal years, and is required by the General Statutes. The moneys deposited by the DPUC in the "Funds Awaiting Distribution" fund were then transferred to the Military Department (later DEMHS).

Also, we found that during the fiscal year ended June 30, 2006, a check from one of the nuclear power generating facilities, in the amount of \$1,404,372.58, that should have been deposited by the DPUC, was erroneously received by the Military Department, which deposited the

funds in the Federal Funds (Fund 12060) in error. The Military Department did not notify the DPUC of this deposit.

The restricted account is under the control of DEMHS and not under the control of the DPUC, however, the General Statutes state the account should be within the DPUC.

The current procedures do not provide assurances that should the fund exceed \$300,000, it would be detected by the DPUC.

*Effect:* Several provisions of Section 28-31 of the General Statutes are not being complied with. The receipts are not being deposited in the General Fund (Federal and Other Restricted Accounts Fund), and the DPUC is not monitoring the account to ensure the balance does not exceed three hundred thousand dollars. The internal controls over the billing and collection process need improvement.

*Cause:* Beginning in fiscal year 2005-2006, the DPUC started to deposit these funds in the “Funds Awaiting Distribution” fund, as it was considered “easier” than depositing the funds in the General Fund.

*Recommendation:* The Department of Public Utility Control should comply with Section 28-31 of the Connecticut General Statutes and deposit Nuclear Safety Emergency Preparedness Account receipts to the established restricted General Fund account (now the Federal and Other Restricted Accounts, 12060 Fund). The DPUC should monitor the balance in the account so that it does not exceed the statutory maximum of \$300,000, and improve controls over the billing and receipt process. (See Recommendation 4).

*Agency Response:* “The Department agrees with this recommendation. It is implicit that certain aspects of CGS 28-31 need updating. The agency will pursue legislative changes but, in the meantime, will make every effort to comply under the current language.”

**Lack of Notice/Unallowed Civil Penalties for Call Before You Dig Violations:**

*Criteria:* Section 16-41 subsection (c) of the Connecticut General Statutes states: “If the department has reason to believe that a violation has occurred for which a civil penalty is authorized by subsection (a) or (b) of this section, it shall notify the alleged violator by certified mail, return receipt requested, or by personal service.”

Section 16-345-9 of the Connecticut State Regulations states, in part: “Any person, excavator, public agency or public utility which the Department finds to have violated any provision of Chapter 293 of the Connecticut General Statutes, or any other regulations promulgated thereunder, may be fined, after notice and opportunity for a hearing as

provided in Section 16-345-8 of the Regulations of Connecticut State Agencies. In such case, such person, excavator, public agency or public utility shall, except as provided in subsection (b) of this section, forfeit and pay to the State a civil penalty in accordance with the following schedule of penalties:

(1) For violations which do not involve personal injury, death or property damage:

(A) A minimum civil penalty of two hundred dollars (\$200) for a first violation...

*Condition:* The DPUC rarely issues the notice containing the information as required by Section 16-41 subsection (c) of the General Statutes. The DPUC has been requiring violators to attend a “settlement meeting” without first offering the violator the opportunity to pay the fine, or request a hearing as provided for in Section 16-356 of the General Statutes. The DPUC instead, has been entering into “negotiations” with violators at the “settlement meeting” in order to reach a “settlement agreement” which includes the civil penalty to be assessed.

In lieu of the \$200 civil penalty, the DPUC requires first-time violators to attend a three-hour training session on the “Call Before You Dig” regulations, however, Regulations do not provide for such a requirement.

*Effect:* With respect to first-time violations that do not involve property damage, the “Call Before You Dig” Regulations are not being followed. Requirements are being imposed on violators that are not specified in the Regulations. During the fiscal years ended June 30, 2006 and 2007, the Department should have imposed fines totaling approximately \$23,200, and \$24,400, respectively, for first time violations.

*Cause:* The cause was not determined.

*Recommendation:* The Department of Public Utility Control should issue the notice as required by Section 16-41 subsection (c) of the General Statutes. The Department of Public Utility Control should consider imposing the minimum \$200 civil penalty on first-time violators of the “Call Before You Dig” regulations that do not involve property damage, and consider revising the Regulations to require first-time violators to attend a training class in addition to, or in lieu of, paying a civil penalty. The DPUC should seek a change in legislation to specifically allow for the current practice of negotiating civil penalties and entering into settlement agreements, in lieu of following the requirements set forth in Section 16-41 and 16-356 of the Connecticut General Statutes. (See Recommendation 5).

*Agency Response:*

“Response to Lack of Notice:

The Department understands the points outlined in the auditors’ recommendation but respectfully disagrees with the conclusions reached. It is important to provide statutory background in addressing this recommendation.

Connecticut General Statutes (CGS) 16-19jj requires the Department to encourage the use of alternative dispute resolution mechanisms to resolve contested cases and proceedings that result in proposed settlements. In addition, CGS 4-177(c) provides that “Unless precluded by law, a contested case may be resolved by stipulation, agreed settlement, or consent order or by the default of a party.” Section 4-177 is contained in the Uniform Administrative Procedure Act which governs all administrative agencies that conduct contested cases and which prescribes the level of due process that must be afforded to all parties.

CGS 4-176e prohibits an individual who has personally carried out the function of an investigator from serving as a hearing officer in that case. This prohibition applies not only to the hearing officer but to all staff assigned to assist the decision maker and are legal extensions of the hearing officer.

CGS 16-356 empowers the Department to assess a civil penalty against any person who violates the Call Before You Dig statutes “after notice and opportunity for a hearing as provided in section 16-41...”

Finally, CGS 16-41 describes the manner of service of notice before imposing a civil penalty and what that notice must contain, as well as the violator’s right to request a hearing.

The Department’s Executive Director routinely appoints a prosecutorial team to investigate and prosecute violators of the CBYD laws. This team is segregated from the rest of Department staff to permit the Department to maintain its impartiality should the case result in a hearing. All violations demand some degree of investigation which results in a prepared case. Once an investigation is complete and a case is prepared, the prosecutorial team is charged with the duty of filing a motion with the Department to open a proceeding. Before such a motion is filed, the prosecutorial team routinely contacts the violator for the purpose of exploring settlement. As noted, CGS 4-177(c) broadly permits settlements and 16-19jj specifically encourages the Department to use alternative dispute resolution techniques to reach settlements. These discussions are specifically conducted outside of the “public eye” to encourage the frank and free exchange between the parties that encourages settlement. The Department is able to process a larger number of settlements than would be possible through hearings due

to the limitation of Department personnel resources and the time required to adjudicate a civil penalty case, presenting the argument that as a result, a greater dollar amount of actual penalties are deposited in the General Fund.

With regard to the notice requirements of CGS 16-41, it is critical to understand that the statutory rights to notice and hearing can be waived. In the case of a CBYD matter, the violator waives his rights to notice and hearing under 16-41 by entering into a voluntary settlement. The Department has consulted with our Assistant Attorneys General and they concur that our interpretation of CGS 16-41 and CGS 16-19jj is correct. The Department would be willing to consider adding a detailed waiver section to every settlement.

Response to Unallowed Civil Penalties:

The Department respectfully disagrees with the auditor's findings that the Regulations of Connecticut State Agencies §16-345-9 are not being followed. Section 16-345-9(a) clearly states that "Any person, excavator, public agency or public utility which the department finds to have violated any provision of Chapter 293 of the Connecticut General Statutes, or any regulations promulgated thereunder, **may be fined**..." [Emphasis added] In addition §16-345-9(c) states "In determining **whether to assess** a civil penalty and the amount of civil penalty to be assessed..." [Emphasis added] The terms "may be fined" and "whether to assess" give the Department wide discretion in handling civil penalties for Call Before You Dig violations. In each instance here, the fine is clearly permissive under the regulations, not mandatory. Training classes are offered only on a voluntary basis to violators, as the Department does feel that the classes are very effective and in the best interests of public safety. The recidivism rate for first-time violators that have attended the training class is extremely low. The Department has also consulted with our Assistant Attorneys General and they concur that the Department is correct in its interpretation of §16-345-9. The Department will consider adding training classes as an option under §16-345-9 during its next revision of the Call Before You Dig regulations."

*Auditors' Concluding  
Comments:*

Section 16-19jj of the Connecticut General Statutes states: "The Department of Public Utility Control shall, whenever it deems appropriate, encourage the use of proposed settlements produced by alternative dispute resolution mechanisms to resolve contested cases and proceedings."

Section 4-166 of the Connecticut General Statutes defines a contested case as "...a proceeding, including but not restricted to rate-making, price fixing and licensing, in which the legal rights, duties or privileges of a

party are required by state statute or regulation to be determined by an agency after an opportunity for hearing or in which a hearing is in fact held...”

Section 16-356 of the Connecticut General Statutes states: “Any person, public agency or public utility which the Department of Public Utility Control determines, after notice and opportunity for a hearing as provided in section 16-41, to have failed to comply with any provision of this chapter or any regulation adopted under section 16-357 shall forfeit and pay to the state a civil penalty of not more than forty thousand dollars ...”

We believe these matters do not become contested cases until the DPUC follows the procedures under Section 16-41 (c) of the General Statutes, and only if the violator requests a hearing (i.e. actually contests the fine). We question the use of Section 16-19jj CGS prior to affording the violator the opportunity to pay the fine immediately and/or providing the violator notice and opportunity to request a hearing. We could not determine why the DPUC is reluctant to send out the notice as required under Section 16-41 CGS in all cases.

Lastly, we note that in one recently concluded “Call Before You Dig” investigation, the DPUC actually did notify the contractor in accordance with Sections 16-41 and 16-356 of the General Statutes. In this case (Docket #08-02-08), the contractor was sent a “Notice of Violation and Assessment of Civil Penalty” in the amount of \$301,000, and was given thirty days to request a hearing before the Department, which the contractor did. Before a formal hearing was held, however, a negotiated settlement was reached and submitted to the Commissioners for approval. The approved settlement provided, among other things, for the contractor to pay an \$85,000 civil penalty to be deposited in the General Fund, and payment of \$150,000 to the Southern Connecticut Gas Company, in two \$75,000 installments, to fund a third-party inspection program to monitor the contractor’s compliance.

### **Property Control and Inventory Reporting:**

*Criteria:* Section 4-36 of the Connecticut General Statutes provides that each State agency shall establish and keep inventory records in the form prescribed by the State Comptroller. Standards and procedures for recording and maintaining inventory records are set forth in the State of Connecticut’s Property Control Manual. The Core-CT “Asset Management Guide for Managers” requires all capital assets with a cost or value of \$1,000 or more to be listed in Core-CT, and sets forth policies and procedures to follow in maintaining assets in Core-CT to enable accurate control and reporting.

*Condition:*

The DPUC is not maintaining their capitalized and controllable inventory in accordance with the Property Control Manual or Core-CT “Asset Management Guide for Managers”.

The DPUC does not use form CO-1079 “Record of Equipment on Loan” or equivalent as required by the Property Control Manual for State property removed from the premises. The inventory records also do not reflect the actual physical location of these items that are removed from the premises.

The agency does not use an “equipment transfer form” to document an asset’s movement. Doing so would provide better control over the assets, and help facilitate the annual physical inventory.

The DPUC is not accurately reporting their inventory balance on the CO-59. In preparing the CO-59 for the 2006 and 2007 fiscal years, the DPUC did not use the values listed in Core-CT, which resulted in discrepancies between the amounts reported and Core-CT.

The DPUC did not report actual additions to Core-CT on the CO-59, only purchases. They did not consider the trade-in value, or other adjustments that were made in Core-CT. The DPUC did not report actual deletions on the CO-59 in FY `07. The DPUC understated deletions by \$29,893 in an attempt to match the calculated balance on the CO-59 with the inventory balance in Core-CT.

The DPUC did not prepare a reconciliation for the 2007 fiscal year of their records and Core-CT, as required by the Property Control Manual. As a result of the above, purchases that were not added to the inventory, an item added with the incorrect cost, and other errors went undetected. Two Automatic External Defibrillators (AED’s) with a combined value of \$3,098 were purchased in the 2007 fiscal year, were tagged and reported on the CO-59, but have not been added to the inventory as of December 2008. The value of a mail machine was also overstated by \$19,227 on the inventory.

Asset Profile / Asset Category - 374 of 560 or 67 percent of the Assets listed in Core-CT as of June 30, 2008, had the incorrect Asset Profile and / or Asset Category. The DPUC is not able to use the reporting capabilities in Core-CT to report their inventory figures on the CO-59 because these errors cause incorrect Core-CT reporting.

The agency has items valued under \$1,000 recorded in Core-CT as equipment. Controllable items (items valued under \$1,000) having a category and profile ID of equipment should be controllable.

Voucher Info. - Voucher information was missing in the Core-CT Inventory Module for 29 of 33 or 88 percent of the assets reviewed for voucher information. The DPUC has only entered voucher / acquisition information for a few assets.

Acquisition Date - During our review of new purchases, we noted that the agency did not enter the actual purchase date when entering assets. They usually entered the date that the asset was added. This could cause reporting errors. We also noted a delay of several months, which sometimes crossed fiscal years, in adding new purchases to Core-CT.

The DPUC does not maintain a separate inventory of library materials, and does not report the value on the CO-59 as required by the Property Control Manual.

*Effect:*

DPUC's property control records are not in compliance with the Connecticut General Statutes, established policies, or procedures. The conditions described above weaken internal control over equipment and increase the likelihood that the loss of equipment may occur and not be detected by management.

The DPUC is not able to use the reporting capabilities in Core-CT to report their inventory figures on the CO-59 because of their failure to enter assets with the correct Asset Profile and / or Category in Core-CT. These errors cause incorrect Core-CT reporting.

CO-59:

FY `06 - Additions;

Purchases were understated by \$9,025, and adjustments were understated by \$725, resulting in a total understatement of \$9,750.

FY `07 - Additions;

Purchases were understated by \$10,000 for the trade-in allowance, and \$139 for other purchases, resulting in a total understatement of \$10,139.

FY `07 - Deletions;

The DPUC understated deletions by \$29,893 in an attempt to match the calculated balance on the CO-59 with the inventory balance in Core-CT.

FY `07 - Ending Balance;

As a result of the above, the inventory balance at June 30, 2007, was overstated by \$10,004.

*Cause:* The DPUC has failed to follow established policies and procedures. The DPUC has also failed to dedicate adequate staff resources needed to maintain their inventory in an accurate manner.

*Recommendation:* The Department of Public Utility Control should comply with Section 4-36 of the Connecticut General Statutes, the State of Connecticut's Property Control Manual and the Core-CT "Asset Management Guide for Managers", and improve internal control over equipment inventory and reporting. The DPUC should consider purchasing a bar code scanner to conduct its periodic and annual inventory. (See Recommendation 6.)

*Agency Response:* "The Department agrees with this recommendation, with the understanding that certain cited examples have been corrected. Specific corrections related to the two AEDs which had been inadvertently omitted from the inventory and a miscalculation of the agency's postage machine's trade in worth, resulting in an overstated value. Some of these errors had occurred during the initial phase-in period of the asset management system with Core-CT. The verification process for the entire agency's inventory has since been removed from the Storekeeper's sole responsibility and delegated to each unit. This reassignment of staff should resolve issues going forward with this process. A bar code scanner system is something the agency has been considering, but under current economic conditions may defer to a more suitable fiscal climate."

**Personnel Files, Delay in Processing Terminations, and Failure to Terminate Leave Plans:**

*Criteria:* 1 - Office of the State Comptroller (OSC) Memorandum 2002-29 requires that "when an employee is hired, a valid social security number must be placed on file".

2 - The "Immigration Reform and Control Act of 1986" requires employers to complete the U.S. Department of Justice INS Form I-9. The form is now known as the U.S. Department of Homeland Security CIS Form I-9, and is required for any employee hired after November 6, 1986.

"All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. On the form, the employer must verify the employment eligibility and identity documents presented by the employee and record the document information on the Form I-9."

"This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States."

“An individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.”

“Form I-9 must be kept by the employer either for three years after the date of hire or for one year after employment is terminated, whichever is later. The form must be available for inspection by authorized U.S. Government officials (e.g., Department of Homeland Security, Department of Labor, Office of Special Counsel).”

1, 2 - Section 11-8 of the Connecticut General Statutes (Records management program...) delegates the responsibility for developing and directing a records management program to the State Librarian. The Office of the Public Records Administrator (OPRA) within the State Library is responsible for designing and implementing the Public Records Program for local government agencies and for State agencies within the executive department of government. Schedule S2 item S2-145 of the State Agencies’ Retention / Disposition Schedule requires a minimum retention period for an employee’s personnel file (and information contained therein) of the “duration of employment plus 30 years”. Schedule S2 item S2-180 requires the I-9 form to be retained for a minimum retention period of three years after the date of hire or one year after the date employment ends, whichever is later.

Section 11-8b (Transfer or disposal of public records...) states that “all public records, as defined in Section 11-8 or Section 11-8a, or other such records, created by public offices, are the property of the agency concerned and shall not be removed, destroyed, mutilated, transferred or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules and regulations adopted by the State Library Board.”

3 - Terminations should be processed in a timely manner to prevent erroneous payroll and personnel transactions from occurring.

3, 4 - The Core-CT “Checklist for Terminating an Employee” outlines procedures for terminating an employee’s leave plan.

*Condition:*

1 - Social Security numbers were not on file for 14 of 16 employees’ personnel files reviewed.

2 - The U.S. Department of Justice INS I-9 Forms were not on file for six of the 10 sampled employees who were hired after November 6, 1986. (The form is now known as the U.S. Department of Homeland Security CIS Form I-9.) Two of the four I-9 forms on file were incomplete.

3 - We noted a delay in the processing of four terminations in Core-CT, ranging from 38 days to 515 days from the last day worked.

4 - We noted that the leave accruals in Core-CT were not “turned off” for four employees upon termination. The DAS SmART Unit does not seem to be following the Core-CT “Checklist for Terminating an Employee”, or the procedures for terminating an employee’s leave plan.

*Effect:* 1, 2 - The agency is in violation of the above requirements. Personnel records are incomplete.

“The Department of Homeland Security (DHS) may impose penalties if an investigation reveals that an employer has knowingly hired or knowingly continued to employ an unauthorized alien, or has failed to comply with the employment eligibility verification requirements, with respect to employees hired after November 6, 1986.”

“Employers who fail to properly complete, retain, and/or make available for inspection Form I-9 as required by law may face civil money penalties in an amount of not less than \$110 and not more than \$1,100 for each individual with respect to whom such violation occurred.”

3, 4 - Erroneous payroll and personnel transactions are occurring.

*Cause:* The cause could not be determined.

*Recommendation:* 1, 2 - The DAS SmART Unit should ensure that personnel files are complete, including having employees’ Social Security numbers and INS / CIS Form I-9’s on file. The DAS SmART Unit should also follow section 11-8b of the Connecticut General Statutes, and the records retention schedules.

3 - Terminations should be processed in a timely manner to prevent erroneous payroll and personnel transactions from occurring.

4 - The DAS SmART Unit should follow the Core-CT “Checklist for Terminating an Employee”, and the procedures for terminating an employee’s leave plan to prevent future errors. The DAS SmART Unit should terminate the leave plans for those terminated employees in which this has not been done. (See Recommendation 7.)

*Agency Response:* “The Department agrees with this recommendation. It is possible that the transition of human resource duties from the DPUC to DAS SmART Unit may have resulted in the misplacement of documentation. Files of I-9 forms were located subsequent to the auditors’ investigation. The Department agrees that closer review of the “Checklist for Terminating an

Employee” is warranted and will work with DAS to ensure that proper personnel documentation is on file.”

**Leave in Lieu of Accrual, Terminating Leave Plans / Zeroing Balances, and Erroneous Leave:**

*Criteria:*

1 - The Leave in lieu of accrual (LILA) time reporting code (TRC) is intended to be temporary, and the correct leave coding is eventually supposed to be entered after the month’s accruals are posted. Core-CT has a Job Aid to assist agencies in monitoring the LILA TRC so they can identify and adjust the employee’s leave balance after the accruals have been posted.

2 - The Core-CT “Checklist for Terminating an Employee” outlines procedures for terminating an employee’s leave plan, and zeroing out their leave balances upon payout etc.

3 - Most union contracts provide for 24 hours of personal leave per year.

Proper internal control provides for verification of an employee’s leave balances when transferring to another agency.

*Condition:*

1 - The Leave in lieu of accrual TRC can be used when an employee wishes to use leave that has been earned but not yet posted in Core-CT. DPUC employees have used this coding. As previously mentioned, it is intended to be temporary, and the correct leave coding is eventually supposed to be entered after the month’s accruals are posted. It does not appear that this is being done consistently by the DAS SmART Unit. As a result, employees’ leave balances have not been charged for time taken.

2 - We noted that the leave accruals in Core-CT were not “turned off” for four employees upon termination. We also noted that 23 terminated employees (including the four who are still accruing leave) were still carrying leave balances despite the fact that they received a payout for most of these hours. The DAS SmART Unit does not seem to be following the Core-CT “Checklist for Terminating an Employee” which outlines procedures for terminating an employee’s leave plans, and zeroing out their leave balances upon payout etc.

**Recovery / Adjustment of Erroneous Leave:**

Four additional employees who were part of the Consumer Outreach Program that ended December 31, 2005, were laid off effective January 1, 2006, but their leave plans were not terminated. When these employees were rehired five months later, the erroneous accruals were available i.e. they had accrued five months of vacation and sick leave even though they were not entitled / employed during this time. We brought this matter to the agency’s attention, and the leave was recovered in November 2006,

and June 2007. A total of 200 vacation hours were recovered, at the employees' average hourly rate of \$24.98, resulted in the recovery of approximately \$5,000 in State Funds. A total of 200 sick hours were recovered, at the employees' average hourly rate of \$24.98, resulted in the recovery of approximately \$5,000 in State Funds.

3 - An employee used and was paid for 32 hours of Personal Leave in 2007. A second employee used and was paid for 42 hours of Personal Leave in 2008.

We also found that the later employee's sick leave balance was overstated by 833.50 hours, vacation leave was overstated by 47.00 hours, and personal leave was overstated by 24 hours. The employee used 18 personal leave hours in excess of the 24 allowed as previously mentioned. We brought this matter to the agency's attention, and the leave was recovered. A total of 904.50 hours at the employee's hourly rate of \$37.01 resulted in the recovery of \$33,475 in State Funds.

*Effect:*

1 - Leave in lieu of accrual (LILA):

2006 - The leave time for five out of seven employees who had the LILA TRC was not charged for a total of 74.50 hours;

2007 - The leave time for three out of five employees who had the LILA TRC was not charged for a total of 17.50 hours.

2 - 23 Terminated Employees are still carrying a leave balance:

Vacation Hours = 4,126;

Sick Hours = 5,508;

PL Hours = 359

Total Hours equaled 9,993, at the employees' average hourly rate of \$37.32 equals \$372,939 in potential liability for the State if these employees are rehired, which has happened as noted in Condition number two above.

Four additional employees accrued a total of 200 hours of vacation leave, and 200 hours of sick leave at the employees' average hourly rate of \$24.98 equals approximately \$10,000 in total that they were not entitled to.

3 - The employee used eight hours in excess of the 24 allowed by union contract. A second employee used 18 hours in excess of the 24 allowed. This employee's leave balances were also overstated by a total of 904.50 hours, at the employee's hourly rate of \$37.01 equals \$33,475.

*Cause:* 1, 2 - DAS SmART Unit's failure to properly process employee terminations, combined with a system-wide control weakness in Core-CT allowed this to happen.

3 - The cause of the first error could not be determined. The cause of the second error occurred when the employee transferred from the Department of Labor (DOL), to the DPUC. The DAS SmART Unit processed leave adjustments in Core-CT equal to the balances carried by the DOL, effectively doubling the employee's leave balances.

*Recommendation:* 1 - Leave in lieu of accrual (LILA) - DAS SmART Unit should follow the Core-CT Job Aid which assists agencies in monitoring the LILA Time Reporting Code, so they can identify and adjust the employee's leave balance after the accruals have been posted. The DAS SmART Unit should correct the affected employees' leave.

2 - The DAS SmART Unit should follow the Core-CT "Checklist for Terminating an Employee" which outlines the procedures for terminating an employee's leave plan, and zeroing out their leave balances upon payout etc. to prevent future errors. The DAS SmART Unit should ensure that the leave plans are terminated, and balances zeroed out for all terminated employees, and correct those that have not been.

Leave plan terminations should be processed in a timely manner to prevent erroneous payroll transactions from occurring.

3 - The DAS SmART Unit should recover the PL hours used in excess of the allowed amount. The DAS SmART Unit should review the leave balances of employees who transfer from another agency before processing any adjustments. (See Recommendation 8.)

*Agency Response:* "The Department agrees with this recommendation. The Department recognizes the criticality for closer scrutiny of the "Checklist for Terminating an Employee". The Department will endeavor to improve communications with its DAS SmART Unit to ensure compliance."

**Payment of Straight Time Overtime to Exempt Employees in Excess of OPM Limit:**

*Criteria:* Article 17 of the Engineering, Scientific and Technical (P-4) Contract addresses the payment of straight time overtime.

Section One, Subsection (b) states that "the State will continue to pay overtime to eligible employees at the straight time rate for hours over 35 but under 40, and at time-and-one-half for hours worked over 40, except as provided otherwise in Section 5-245 (of the Connecticut General

Statutes) for employees on rotating shifts and unscheduled positions and classes or herein.”

### Section Three. Exempt Employees

“During the life of this Agreement, Section 5-245(b)(1) (of the Connecticut General Statutes) shall be deemed to exempt from overtime all employees being paid above Salary Group 24, and those classified positions which on June 30,1977 were deemed exempt positions. Subject to the operating needs of the agency:

(1) Exempt employees who are required by the State to attend regular and recurrent evening meetings or otherwise to be called out regularly to perform work outside the regular scheduled workweek shall be authorized to work a flexible work schedule or to receive compensatory time off, and

(2) Exempt employees who are required by the State to perform extended service outside the normal workweek to complete a project or for other State purpose shall be authorized to receive compensatory time off...”

(a) If the performance of extended service in (2) above is as a direct result of a declared State or national emergency, payment at straight time rather than compensatory time will be made when special funding is specifically provided for such service or, if such special funding is not provided, when approved by the Secretary of the Office of Policy and Management or designee.

(b) In situations other than declared State or national emergencies and where the granting of compensatory time off would create a hardship to an Agency, payment at straight time may be granted with approval of the Secretary of the Office of Policy and Management or designee.”

The DPUC requested approval from OPM for the payment of straight time overtime to six supervisors in the P-4 Bargaining Unit who were above Salary Group 24. The DPUC received approval for two six month periods. OPM gave approval for up to \$21,100 for the period from January 5, 2008 to July 3, 2008, based on the DPUC’s request of \$21,059.

*Condition:*

We noted that the DPUC exceeded the \$21,100 limit set by OPM for the period from January 5, 2008 to July 3, 2008. Our review showed that they did not exceed the limit set for the first six months, but did exceed the limit set for the second six months by \$14,870.

*Effect:*

The DPUC exceeded the limit set by OPM for the second six months by \$14,870.

Supervisors earned straight time overtime for a period that should have been compensatory time.

*Cause:* The DPUC miscalculated the amount of straight time overtime to be earned by the six supervisors for the second six month period. Their calculation was based on five hours for each biweekly pay period, for each employee, but intended it to be five hours per week for each employee. The DPUC intended to request approval for up to \$42,118, but due to the miscalculation, requested and received approval for half that amount. It is unknown as to whether OPM would have approved an amount in excess of \$21,100.

The DPUC did not adequately monitor the amount of straight time overtime being earned by the six supervisors.

The DAS SmART Unit processes payroll for the DPUC, and this contributed to the condition as the DPUC has limited access to Core-CT.

*Recommendation:* The DPUC should implement better controls in the area of overtime, and adhere to any future limits imposed by OPM or its' designee.

The DPUC should ensure that supervisors earn compensatory time for periods that exceed 35 hours or are not covered by an OPM waiver. (See Recommendation 9).

*Agency Response:* "The Department agrees with this recommendation. As previously clarified in a letter to the Auditors of Public Accounts, the Department was aware of the referenced language in the P-4 union contract and made every effort to comply. However, a mathematical error in the Department's initial computation submitted to the Office of Policy and Management resulted in the inaccuracy leading to this recommendation."

### **Alleged Theft of Time and Falsification of Timesheets:**

*Background:* We received a complaint from an employee in November 2008 that a DPUC employee was coming in for work late, and leaving early. The complainant stated that they regularly observed this employee arriving between 10:00 AM and 10:30 AM, and leaving around 3:30 PM.

The employee in question belongs to the Engineering, Scientific and Technical Bargaining Unit (P-4), and is considered office personnel as opposed to field personnel. The normal workday is seven hours (excluding lunch), but this employee is apparently on a four / five flex schedule, so the average workday should be approximately seven and three quarter hours (excluding lunch) with every other Friday off.

Employees are issued a building access card upon their hire. The agency maintains a list of the cards, and to whom they are issued to. The same is done for the access cards to the City of New Britain Parking Garage, which is partially leased by the DPUC. These cards are needed to both enter and exit the garage.

Security personnel monitor security cameras, and a computer screen that shows building access activity. When a building access card is swiped, the employee's picture, which is on file, appears on the screen. They monitor this to ensure that employees are using their own card, or in the case of a lost card, that someone off the street is not trying to get in the building.

We obtained the building access information from the DPUC's IT personnel, and garage access information from the City of New Britain. We performed an analysis of this information, along with the employee's attendance and leave records for January 7, 2008 to February 24, 2009.

*Criteria:*

Sound business practices and proper internal control provide assurances that employees are properly supervised, and are only compensated for hours worked.

Article 16 of the Engineering, Scientific and Technical (P-4) Contract addresses hours of work.

Section One states that "The standard work week of all full-time employees shall be thirty-five (35) hours and five (5) days, normally Monday through Friday with regular starting and ending time between the hours of 7:00 AM to 5:00 PM for field personnel and 8:00 AM to 4:30 PM for office personnel, including a half-hour unpaid meal period."

The DPUC's Employee Handbook states "P-4 employees are required to work 35 hours per week and their standard work day runs from 8:30 AM to 4:30 PM with one hour for lunch."

The DPUC does allow for flex schedules, including flexible starting and ending times if requested by the employee. The Employee Handbook outlines various guidelines, including required "core hours (presence required)" from 10:00 AM to 12:00 PM, and from 2:00 PM to 3:00 PM. Time off during the core hours requires prior approval from the immediate supervisor. Employees must work within the hours of 7:00 AM to 6:00 PM. A schedule must be submitted to the division head indicating their preferences.

Section 11-8b (Transfer or disposal of public records...) states that "all public records, as defined in section 11-8 or section 11-8a, or other such

records, created by public offices, are the property of the agency concerned and shall not be removed, destroyed, mutilated, transferred or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules and regulations adopted by the State Library Board”.

*Condition:* Based on our review of various sources of information, along with the employee’s attendance and leave records for January 7, 2008 to February 24, 2009, it appears that the complaint is substantiated.

For the period under review, it appears that this employee’s arrival time was between 10:00 AM and 12:00 PM, with an average arrival time of 11:15 AM, and the departure time was between 3:30 PM and 4:00 PM. This employee regularly took an extended lunch ranging from over one hour to two hours. The employee took every other Friday off, apparently as part of a four / five flex schedule. The average workday (excluding the extended lunch periods) was slightly less than three hours and fifteen minutes, or approximately 29 hours per biweekly pay period.

We reviewed the employee’s leave records, and found that no leave was charged during these periods of absence in order to complete a full workday.

While the employee in question was apparently working a flex schedule, the agency could not provide us with a copy of one covering the period of suspected absence.

We reported this matter to management on December 5, 2008, after reviewing the building and garage access information for November 2008. We then expanded our review, and followed-up in February 2009 to see if there was any improvement. There was none, so we reported this matter to management for a second time on March 6, 2009. We were informed that the agency is going to investigate this matter.

*Effect:* The employee took every other Friday off, apparently as part of a four / five flex schedule. The average workday (excluding the extended lunch periods) was slightly less than three hours and fifteen minutes, or approximately 29 hours per biweekly pay period.

We reviewed the equivalent of twelve biweekly pay periods, and determined that the employee was not present for approximately 41 hours per biweekly pay period, or a total of 492 hours in lost time. Factoring in the employee’s average hourly rate of \$50.39 equals \$24,792.

There is a risk that situations such as this will create an environment where employees will abuse time, and take advantage of management.

*Cause:* The immediate supervisor / manager failed to adequately supervise this employee. There is also an inadequate reporting relationship.

Internal documents indicate that this employee did not have a heavy work load, explaining how this employee was able to complete assigned tasks while only being present less than half the time.

*Recommendation:* The DPUC should investigate the alleged theft of time and falsification of timesheets in accordance with the provisions of the P-4 contract and the State Personnel Act. If the investigation reveals that the employee was absent for periods of time in which they were compensated, the DPUC should seek recovery of those funds.

The DPUC should also follow the requirements of Section 4-33a of the General Statutes, which requires all State agencies to promptly notify the Auditors of Public Accounts and the State Comptroller of any unauthorized, illegal, irregular, or unsafe handling or expenditure of State funds or breakdowns in the safekeeping of other State resources.

The DPUC should improve controls over payroll and personnel to provide assurances that employees are properly supervised, and are only compensated for actual hours worked and leave time charged.

The DPUC should correct the inadequate reporting relationship, and evaluate the workload for this employee to ensure that resources are being used efficiently and effectively.

Lastly, the DPUC should restrict flex schedules to those employees who show that they are reliable, and can be trusted to work the hours that are indicated on their work schedule election form. These forms should be retained in accordance with the State's records retention requirements. (See Recommendation 10).

*Agency Response:* "The Department is very conscious of the seriousness of these findings and has reported the matter to the DAS SMART Unit Human Resources for investigation. Furthermore, the Department is taking strong steps to ensure this situation does not have any chance of being repeated in the future. Such measures include the issuance of a clear formal attendance policy and increased oversight of all employees by supervising personnel. A review of time and attendance methods has resulted in the Department revising the process by which these are monitored and enforced and these procedures will be clearly communicated to the agency's entire staff. The Department will ensure efforts to comply with CGS 4-33a."

**Other Matters:**

We investigated an allegation that the DPUC failed to protect consumers as a result of a billing issue involving customers of the Connecticut Natural Gas Company (CNG). About 2,300 customers of CNG received bills for natural gas usage in late 2007 that were under billed as a result of the actions of three meter readers who deliberately misreported the customers' actual meter readings, a practice known as "curbing". During January and February 2008, CNG attempted to recoup the entire amounts that were under billed by adding it to the customers' current month's bills. As a result, customers were sent bills that were up to several times the normal bills they normally receive during those months. This action by CNG violated Section 16-259a, subsection (d), of the Connecticut General Statutes, which requires a payment plan be established in these circumstances. About 33 CNG customers filed complaints with the DPUC's Consumer Services Unit at the time of our review. We found that initially the Consumer Services Unit and the DPUC did not respond adequately to these complaints. We found that the DPUC should have known that CNG was possibly violating Section 16-259a, subsection (d), of the General Statutes, and should have advised customers accordingly. We also found the supervisor's position in the DPUC's Consumer Services Unit had been vacant for the previous eighteen months, and had just been re-filled shortly after the billing issue became known, that the unit's customer services representatives did not receive formal training in the handling of customer complaints, the unit's manual needed updating, and the Customer Service Unit's manager was not conducting periodic staff meetings to discuss complaints and compare notes in order to detect larger trends of this type for management's consideration and action.

The Department of Public Utility Control opened a docket, based on a request by the Office of Consumer Counsel and the Office of the Attorney General, on this issue. After many hearings on the issue, in September 2008, the DPUC ordered CNG to undertake numerous actions to alleviate the customers' billing situation and for CNG to make a \$150,000 contribution to Operation Fuel, in lieu of imposing a civil penalty on the company. The complete 33-page decision on this docket, #08-02-02, is available on the Department's website.

**OFFICE OF CONSUMER COUNSEL  
COMMENTS**

**FOREWORD:**

The Office of Consumer Counsel (the Office or OCC) operates under Section 16-2a of the General Statutes and is within the Department of Public Utility Control for administrative purposes only. The OCC acts as the advocate for consumer interests in matters relating to public service companies. Under Section 4-38f of the General Statutes, an agency assigned to a department for “administrative purposes only” exercises its statutory authority independent of such department and without approval or control of the department. The department to which an agency is assigned for administrative purposes shall provide record keeping, reporting and related administrative and clerical functions for the agency to the extent deemed necessary by the department head.

The Office is under the direction of a Consumer Counsel appointed by the Governor with the advice and consent of either House of the General Assembly. Mary J. Healey was appointed as Consumer Counsel, effective September 14, 2001, and continues to serve in that capacity.

Significant legislation affecting the Department during the audited period included the following:

Public Act 05-251, Section 60, subsection (c), effective July 1, 2005, directs the Commissioner of Administrative Services, in consultation with the Secretary of the Office of Policy and Management, to develop a plan whereby the Department of Administrative Services (DAS) would merge and consolidate personnel, payroll, affirmative action, and business office functions of selected executive branch agencies within DAS. The Office of Consumer Council’s personnel, payroll, and affirmative action, and business office functions were transferred to the Department of Administrative Services’ Small Agency Resource Team (SmART).

**RÉSUMÉ OF OPERATIONS - OFFICE OF CONSUMER COUNSEL:**

Receipts credited to the Consumer Counsel and Public Utility Control Fund for the Office of Consumer Council totaled \$1,057 and \$0 for the fiscal years ended June 30, 2006 and 2007, respectively. Receipts consisted of refunds of prior years’ expenditures in the fiscal year ended June 30, 2006.

A summary of the Office of Consumer Counsel expenditures from the Consumer Counsel and Public Utility Control Fund for the audited period is presented below:

	<b>Fiscal Year Ended June 30,</b>		
	<b><u>2005</u></b>	<b><u>2006</u></b>	<b><u>2007</u></b>
Personal services	\$920,711	\$897,408	\$1,177,263
Other Expenses	525,579	435,827	452,993
Equipment	12,100	33,351	23,268
Fringe Benefits	482,280	506,405	681,741
Indirect Overhead	<u>69,262</u>	<u>93,265</u>	<u>95,949</u>
<b>Total Expenditures</b>	<b><u>\$2,009,932</u></b>	<b><u>\$1,966,256</u></b>	<b><u>\$2,431,214</u></b>

Total expenditures decreased \$43,676 in fiscal year 2005-2006 from fiscal year 2004-2005 levels, primarily due to small decreases in personal services expenditures. Total expenditures increased by \$464,958 in fiscal year 2006-2007, and reflect increased expenditures in personal services and fringe benefits.

The Office of Consumer Counsel's full-time filled positions totaled 16 as of June 30, 2007, up from 13 positions as of June 30, 2005.

## CONDITION OF RECORDS

Our audit of the Office of Consumer Counsel's records disclosed the following areas that require improvement.

### Use of the Equipment Appropriation:

*Criteria:* Section 4-97 of the General Statutes states: "No appropriation or part thereof shall be used for any other purpose than that for which it was made unless transferred or revised as provided in Section 4-87."

The State Accounting Manual states that the "equipment" appropriation is used for the purchase of items that meet the definition of equipment, which is assets having a value of one thousand dollars or more.

*Condition:* During fiscal years ended June 30, 2006 and 2007, the OCC charged \$21,756, and \$7,471, respectively to the equipment appropriation for various items that do not meet the State Comptroller's definition of equipment. Items purchased included computers, software, and office furniture, all individually costing under the \$1,000 threshold for capitalization. During the two fiscal years audited, the Office of Consumer Counsel expended a total of \$56,618 from the equipment appropriation.

*Effect:* Section 4-97 of the General Statutes, and the State Accounting Manual were not complied with.

*Cause:* The cause was not determined.

*Recommendation:* The Office of Consumer Counsel should comply with Section 4-97 of the General Statutes and charge the "Other Expenses" appropriation, when purchasing non-capitalized equipment. (See Recommendation 1).

*Agency Response:* "The Department of Administrative Services (DAS) SMART unit is responsible for processing and coding our expenditures.

- Voucher # 00000695-DAS is in agreement that the purchase of software did not qualify as Equipment.
- Voucher #00000669-DAS disagrees-it has been a long-accepted practice of agencies to utilize both Capital Equipment Funding and/or Agency Equipment Funding for the purchases of data processing equipment costing less than \$1,000. Agency Equipment Funds are actually funded by the Capital Equipment

Fund, when OPM shifts CEPF funds to the agency accounts. In essence, all the funding originates from bonded funds.

- Voucher #00000966-DAS disagrees-the chairs are part of the entire conference room furniture suite that was purchased. The chairs were purchases as part of a set to furnish a conference room, and the chairs were specifically selected and matched to the conference room table and wood base. The intent is for the chairs to remain in the conference room, and there is no intention of deploying the chairs to any other area/workstation, which will further the expected life and durability of the chairs.”

*Auditors’ Concluding Comment:*

The appropriation coding is still incorrect. Agencies are not allowed to charge equipment costing less than \$1,000 to any appropriation other than from the Capital Equipment Purchase Fund. The OCC should have requested Capital Equipment Purchase Funds if that was their intent. Furthermore, the equipment was charged to the Consumer Counsel and Public Utility Control Fund, not the General Fund. If the “funding mechanism” functions as described in the response, then there should have been a credit to the Consumer Counsel and Public Utility Control Fund.

**Personnel Files, Records Retention Issues, and Unsupported Annual Increases:**

*Criteria:*

1 - Office of the State Comptroller (OSC) Memorandum 2002-29 requires that “when an employee is hired, a valid social security number must be placed on file”.

2 - The “Immigration Reform and Control Act of 1986” requires employers to complete the U.S. Department of Justice INS Form I-9. The form is now known as the U.S. Department of Homeland Security CIS Form I-9, and is required for any employee hired after November 6, 1986.

“All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. On the form, the employer must verify the employment eligibility and identity documents presented by the employee and record the document information on the Form I-9.”

“This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.”

“An individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.”

“Form I-9 must be kept by the employer either for three years after the date of hire or for one year after employment is terminated, whichever is later. The form must be available for inspection by authorized U.S. Government officials (e.g., Department of Homeland Security, Department of Labor, Office of Special Counsel).”

1, 2, 3 - Section 11-8 of the Connecticut General Statutes (Records Management Program...) delegates the responsibility for developing and directing a records management program to the State Librarian. The Office of the Public Records Administrator (OPRA) within the State Library is responsible for designing and implementing the Public Records Program for local government agencies and for state agencies within the executive department of government. Schedule S2 item S2-145 of the State Agencies’ Retention / Disposition Schedule requires a minimum retention period for an employee’s personnel file (and information contained therein) of the “duration of employment plus 30 years”. Schedule S2 item S2-180 requires the I-9 form to be retained for a minimum retention period of three years after the date of hire or one year after the date employment ends, whichever is later.

Section 11-8b (Transfer or disposal of public records...) states that “all public records, as defined in Section 11-8 or Section 11-8a, or other such records, created by public offices, are the property of the agency concerned and shall not be removed, destroyed, mutilated, transferred or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules and regulations adopted by the State Library Board”.

3 - Annual Increases and Performance Assessment and Recognition System (PARS) increases for Managers should only be “awarded” when supported by an annual performance evaluation or PARS form.

*Condition:*

1 - Social Security numbers were not on file for three of the four employees’ personnel files reviewed.

2 - The U.S. Department of Justice INS I-9 Forms were not on file for one of the two sampled employees who were hired after November 6, 1986. (The form is now known as the U.S. Department of Homeland Security CIS Form I-9.)

3 - Annual Increases and PARS increases were awarded to a Manager in the MP payplan that were not supported by an evaluation or PARS form.

It also appears that these were awarded in error, which is addressed as part of Recommendation 3.

*Effect:* 1, 2, 3 - The agency is in violation of the above requirements. Personnel records are incomplete.

2 - “The Department of Homeland Security (DHS) may impose penalties if an investigation reveals that an employer has knowingly hired or knowingly continued to employ an unauthorized alien, or has failed to comply with the employment eligibility verification requirements, with respect to employees hired after November 6, 1986.”

“Employers who fail to properly complete, retain, and/or make available for inspection Form I-9 as required by law may face civil money penalties in an amount of not less than \$110 and not more than \$1,100 for each individual with respect to whom such violation occurred.”

3 - Annual Increases and PARS increases were awarded without adequate supporting documentation.

*Cause:* 1, 2, 3 - The cause could not be determined.

*Recommendation:* The DAS SmART Unit should ensure that personnel files are complete, including having employees’ Social Security numbers, INS / CIS Form I-9’s, and items supporting pay increases on file. The DAS SmART Unit should also follow Section 11-8b of the Connecticut General Statutes, and the records retention schedules. (See Recommendation 2.)

*Agency Response:* “1) No valid social security number on file.

- DAS SmART Unit is responsible for processing all employees and maintaining personnel files. OCC does not have access to these files. OCC has requested that the DAS SmART Unit Human Resources Representative rectify this oversight.

2) CIS Form I-9

- DAS SmART Unit is responsible for processing all employees and maintaining personnel files. OCC does not have access to these files. OCC has requested that the DAS SmART Unit Human Resources Representative rectify this oversight.

3) Annual Increases for Managers awarded in error in 2004, 2005, and 2006.

- During the period DAS and DPUC had full responsibility for processing all OCC payroll and determination of pay rates and increases. The issue has been referred to DAS for review and to determine, what if any further action is necessary.”

**Payroll - Unsupported and Erroneous Annual Increases:**

*Criteria:* Annual Increases and Performance Assessment and Recognition System (PARS) increases for managers should only be “awarded” when supported by a DAS E-Item.

*Condition:* Annual Increases and PARS increases were awarded in 2004, 2005, and 2006 to a manager in the MP 01 payplan that were not supported by an E-Item. It appears that these were awarded in error.

*Effect:* The Manager’s annual salary appears to be overstated by approximately \$10,000. The Manager appears to have been overpaid since October 2004, amounting to approximately \$35,000 as of the pay period ending April 9, 2009.

*Cause:* There seem to be some inconsistencies in the interpretation and application of Annual Increases for those in the MP payplan Bargaining Unit 01.

DAS SmART Unit has been inconsistent in awarding annual increases to managers in the MP 01 payplan, combined with DAS E-Items that do not always address whether AI’s pertain to managers in the MP 01 payplan or not.

*Recommendation:* The DAS SmART Unit should review the Manager’s annual salary, and adjust it accordingly. If an overpayment has in fact occurred, steps should be taken to recover the overpayment. (See Recommendation 3).

(Note: As a result of this review, we identified an additional 11 managers from other agencies who appear to have received AI’s in error and one who received two lump payments at maximum, totaling \$240,000 in possible overpayments from December 2003 to April 2009. We referred this matter to our Office’s auditors located at the Department of Administrative Services, and it is being reported in their Auditors’ Report for the Fiscal Years Ended June 30, 2006 and 2007 as Recommendation 15.)

*Agency Response:* “Annual Increases for Managers awarded in error in 2004, 2005, and 2006.

During the period DAS and DPUC had full responsibility for processing all OCC payroll and determination of pay rates and increases. The issue has been referred to DAS for review and to determine, what if any further action is necessary.”

## RECOMMENDATIONS

Our previous audit examination of the Department of Public Utility Control contained nine recommendations, and two recommendations for the Office of Consumer Counsel. A summary of those recommendations and their status follows:

*Status of Prior Audit Recommendations:*

### **Department of Public Utility Control:**

- *The Department of Public Utility Control should comply with Section 4-97 of the General Statutes, and charge the “Other Expenses” appropriation when purchasing non-capitalized equipment. This recommendation is being repeated. (See Recommendation 1).*
- *The Department of Public Utility Control should deposit all receipts in accordance with Section 4-32 of the General Statutes. This recommendation has been implemented.*
- *The Department of Public Utility Control should comply with Section 16-8, subsection (b) (5), of the General Statutes and annually submit a report of management audits performed, including the status of audits begun but not yet completed and a summary of the results of audits completed, to the joint standing committee of the General Assembly having cognizance of matters relating to public utilities. This recommendation has been implemented.*
- *The Department of Public Utility Control should issue a comprehensive attendance policy that addresses, among other issues, managerial actions to be taken in the event of excessive occasions of absence by its employees. This recommendation has been implemented.*
- *The Department of Public Utility Control should establish a formal training program within the agency, and assign those duties to one of its employees. This recommendation has been implemented.*
- *The Department of Public Utility Control should formally request exclusion from the Small Agency Resource Team for personnel services and seek approval to hire a full-time personnel officer. On January 22, 2008, the DPUC requested exclusion from SmART for personnel services. We were informed that the request was approved, however due to the hiring freeze, the DPUC was not able to fill the position. We are not repeating this recommendation at this time.*
- *The Department of Public Utility Control should review its policies and procedures for granting compensatory time to ensure they are in agreement with collective bargaining agreements and with Section 5-245, subsection (b)(1), of the Connecticut General Statutes, and should determine what additional compensation is due the employee who was granted compensatory time but should have been paid overtime. This recommendation has been implemented.*

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- *The Department of Public Utility Control should improve controls to ensure that all managers receive annual evaluations as required by the Performance Assessment and Recognition handbook, and follow the State's Record Retention Guidelines. This recommendation has been implemented.*
- *The Department of Public Utility Control should establish a Threat Assessment Team as required by the Violence in the Workplace Policy and Procedures Manual. This recommendation has been implemented.*

### **Office of Consumer Counsel:**

- *The Office of Consumer Counsel should comply with Section 4-97 of the General Statutes and with the State Accounting Manual and charge the "Other Expenses" appropriation when purchasing non-capitalized equipment. This recommendation is being repeated. (See Recommendation 1).*
- *The Office of Consumer Counsel should issue a comprehensive attendance policy that addresses, among other issues, managerial action to be taken in the event of excessive occasions of absence by its employees. This recommendation has been implemented.*

Our current audit examination contains 10 recommendations for the Department of Public Utility Control, and three recommendations for the Office of Consumer Counsel.

### *Current Audit Recommendations:*

#### **Department of Public Utility Control:**

- 1. The Department of Public Utility Control should comply with Section 4-97 of the General Statutes and charge the "Other Expenses" appropriation, when purchasing non-capitalized equipment.**

#### Comments:

In our test of expenditures for fiscal year ended June 30, 2006, totaling \$59,058, we found the DPUC purchased items costing \$5,400 that were erroneously charged to the equipment account.

- 2. The Department of Public Utility Control should utilize the billing and receivable functions of the Core-CT system to process its assessment billings and receivables.**

#### Comments:

The Department of Public Utility Control does not use Core-CT to process its assessment billings and receivables.

- 3. The Department of Public Utility Control should develop a standard form for companies to use to comply with the reporting requirements of Section 16-49, subsection (3) (b), of the General Statutes, and provide for managerial approval of the companies' final assessments.**

Comments:

The Department of Public Utility Control does not have a uniformed process to obtain the intrastate revenue information for companies, and there is no managerial approval of the final assessment amounts after the revenue figures are obtained and used in the calculation of the companies' share of DPUC expenses.

- 4. The Department of Public Utility Control should comply with Section 28-31 of the Connecticut General Statutes and deposit Nuclear Safety Emergency Preparedness Account receipts to the established restricted General Fund account (now the Federal and Other Restricted Accounts, 12060 Fund). The DPUC should monitor the balance in the account so that it does not exceed the statutory maximum of \$300,000, and improve controls over the billing and receipt process.**

Comments:

Beginning in the fiscal year 2005-2006, the Military Department (later the Department of Emergency Management and Homeland Security (DEMHS)), began to bill the DPUC for these funds, and the DPUC then billed the nuclear power generating facilities and deposited these receipts in the "Funds Awaiting Distribution" fund, and not directly to the General Fund restricted account, as was done in previous fiscal years, and is required by the General Statutes. A check from one of the nuclear power generating facilities, in the amount of \$1,404,372.58 that should have been deposited by the DPUC was erroneously received by the Military Department, which deposited the funds in the Federal Restricted Fund (Fund 12060) in error. The restricted account is under the control of DEMHS and not under the control of the DPUC, however, the General Statutes state the account should be within the DPUC. The current procedures do not provide assurances that should the fund exceed \$300,000, it would be detected by the DPUC.

5. **The Department of Public Utility Control should issue the notice as required by Section 16-41 subsection (c) of the General Statutes. The Department of Public Utility Control should consider imposing the minimum \$200 civil penalty on first-time violators of the “Call Before You Dig” regulations that do not involve property damage, and consider revising the Regulations to require first-time violators to attend a training class in addition to, or in lieu of, paying a civil penalty. The DPUC should seek a change in legislation to specifically allow for the current practice of negotiating civil penalties and entering into settlement agreements, in lieu of following the requirements set forth in Section 16-41 and 16-356 of the Connecticut General Statutes.**

Comments:

The DPUC rarely issues the notice containing the information as required by Section 16-41 subsection (c) of the General Statutes. The DPUC has been requiring violators to attend a “settlement meeting” without first offering the violator the opportunity to pay the fine, or request a hearing as provided for in Section 16-356 of the General Statutes. The DPUC instead, has been entering into “negotiations” with violators at the “settlement meeting” in order to reach a “settlement agreement” which includes the civil penalty to be assessed. In lieu of the \$200 civil penalty, the DPUC requires first-time violators to attend a three-hour training session on the “Call Before You Dig” regulations, however, Regulations do not provide for such a requirement.

6. **The Department of Public Utility Control should comply with Section 4-36 of the Connecticut General Statutes, the State of Connecticut’s Property Control Manual and the Core-CT “Asset Management Guide for Managers”, and improve internal control over equipment inventory and reporting. The DPUC should also consider purchasing a bar code scanner to conduct its periodic and annual inventory.**

Comments:

The DPUC is not maintaining their capitalized and controllable inventory in accordance with the Property Control Manual or Core-CT “Asset Management Guide for Managers”. The DPUC does not use form CO-1079 “Record of Equipment on Loan” or equivalent for State property removed from the premises. The inventory records also do not reflect the actual physical location of these items that are removed from the premises. The DPUC is not accurately reporting its inventory balance on the CO-59. The DPUC does not maintain a separate inventory of library materials, and does not report the value on the CO-59 as required by the Property Control Manual. A bar code scanner would lessen the time spent on conducting the physical inspections,, and would also improve the accuracy of their inventory because available software could be used to update assets’ current location and identify assets not on the inventory.

- 7. The DAS SMART Unit should ensure that personnel files are complete, including having employees' Social Security numbers and INS / CIS Form I-9's on file. The DAS SMART Unit should also follow Section 11-8b of the Connecticut General Statutes, and the records retention schedules. Terminations should be processed in a timely manner to prevent erroneous payroll and personnel transactions from occurring. The DAS SMART Unit should follow the Core-CT "Checklist for Terminating an Employee", and the procedures for terminating an employee's leave plan to prevent future errors. The DAS SMART Unit should terminate the leave plans for those terminated employees in which this has not been done.**

Comments:

Social Security numbers were not on file for 14 of 16 employees' personnel files reviewed. The U.S. Department of Justice INS I-9 Forms were not on file for six of the 10 sampled employees' who were hired after November 6, 1986. (The form is now known as the U.S. Department of Homeland Security CIS Form I-9.) Two of the four I-9 forms on file were incomplete. We noted a delay in the processing of four terminations in Core-CT, ranging from 38 days to 515 days from the last day worked. We noted that the leave accruals in Core-CT were not "turned off" for four employees upon termination. The DAS SMART Unit does not seem to be following the Core-CT "Checklist for Terminating an Employee", or the procedures for terminating an employee's leave plan.

- 8. Leave in lieu of accrual (LILA) - DAS SMART Unit should follow the Core-CT Job Aid which assists agencies in monitoring the LILA Time Reporting Code, so they can identify and adjust the employee's leave balance after the accruals have been posted. The DAS SMART Unit should correct the affected employees' leave. The DAS SMART Unit should follow the Core-CT "Checklist for Terminating an Employee" which outlines the procedures for terminating an employee's leave plan, and zeroing out their leave balances upon payout etc. to prevent future errors. The DAS SMART Unit should ensure that the leave plans are terminated, and balances zeroed out for all terminated employees, and correct those that have not been. Leave plan terminations should be processed in a timely manner to prevent erroneous payroll transactions from occurring. The DAS SMART Unit should recover the PL hours used in excess of the allowed amount. The DAS SMART Unit should review the leave balances of employees who transfer from another agency before processing any adjustments.**

Comments:

The Leave in lieu of accrual time reporting code is intended to be temporary, and the correct leave coding is eventually supposed to be entered after the month's accruals are posted. It does not appear that this is being done consistently by the DAS SMART Unit. As a result, eight employees' leave balances have not been charged for a total of 92 hours of leave time taken. We noted that the leave accruals in Core-CT were not "turned off" for four employees upon termination. We also noted that 23

terminated employees (including the four who are still accruing leave) were still carrying leave balances despite the fact that they received a payout for most of these hours. The leave balances totaled 9,993 hours, at the employees' average hourly rate of \$37.32 equals \$372,939 in potential liability for the State if these employees are rehired, which has happened as noted below. Four additional employees were laid off effective January 1, 2006, but their leave plans were not terminated. When these employees were rehired five months later, they had accrued five months of vacation and sick leave even though they were not entitled / employed during this time. We brought this matter to the agency's attention, and a total of 200 vacation hours, and 200 sick leave hours were recovered in November 2006, and June 2007. An employee used and was paid for 32 hours of Personal Leave in 2007. A second employee used and was paid for 42 hours of Personal Leave in 2008. We also found that the later employee's sick leave balance was overstated by 833.50 hours, vacation leave was overstated by 47.00 hours, and personal leave was overstated by 24 hours. We brought this matter to the agency's attention, and the leave was recovered. A total of 904.50 hours at the employee's hourly rate of \$37.01 resulted in the recovery of \$33,475 in State Funds.

- 9. The DPUC should implement better controls in the area of overtime, and adhere to any future limits imposed by OPM or its' designee. The DPUC should ensure that supervisors earn compensatory time for periods that exceed 35 hours or are not covered by an OPM waiver.**

Comments:

We noted that the DPUC exceeded the \$21,100 limit set by OPM for the period from January 5, 2008 to July 3, 2008. Our review showed that they did not exceed the limit set for the first six months, but did exceed the limit set for the second six months by \$14,870.

- 10. The DPUC should investigate the alleged theft of time and falsification of timesheets in accordance with the provisions of the P-4 contract and the State Personnel Act. If the investigation reveals that the employee was absent for periods of time in which they were compensated, the DPUC should seek recovery of those funds. The DPUC should also follow the requirements of Section 4-33a of the General Statutes, which requires all State agencies to promptly notify the Auditors of Public Accounts and the State Comptroller of any unauthorized, illegal, irregular, or unsafe handling or expenditure of State funds or breakdowns in the safekeeping of other State resources. The DPUC should improve controls over payroll and personnel to provide assurances that employees are properly supervised, and are only compensated for actual hours worked and leave time charged. The DPUC should correct the inadequate reporting relationship, and evaluate the workload for this employee to ensure that resources are being used efficiently and effectively. Lastly, the DPUC should restrict flex schedules to those employees who show that they are reliable, and can be trusted to work the hours that are indicated on their work**

**schedule election form. These forms should be retained in accordance with the State's records retention requirements.**

Comments:

We received a complaint from an employee in November 2008 that a DPUC employee was coming in for work late, and leaving early. The complainant stated that they regularly observed this employee arriving between 10:00 AM and 10:30 AM, and leaving around 3:30 PM. For the period under review, it appears that this employee's arrival time was between 10:00 AM and 12:00 PM, with an average arrival time of 11:15 AM, and the departure time was between 3:30 PM and 4:00 PM. This employee regularly took an extended lunch ranging from over one hour to two hours. The employee took every other Friday off, apparently as part of a four / five flex schedule. The average workday (excluding the extended lunch periods) was slightly less than three hours and fifteen minutes, or approximately 29 hours per biweekly payperiod. We reviewed the equivalent of twelve biweekly payperiods, and determined that the employee was not present for approximately 41 hours per biweekly payperiod, or a total of 492 hours in lost time. Factoring in the employee's average hourly rate of \$50.39 equals \$24,792.

**Office of Consumer Counsel:**

- 1. The Office of Consumer Counsel should comply with Section 4-97 of the General Statutes and charge the "Other Expenses" appropriation, when purchasing non-capitalized equipment.**

Comments:

During fiscal years ended June 30, 2006 and 2007, the OCC charged \$21,756, and \$7,417, respectively, to the equipment appropriation for various items that do not meet the State Comptroller's definition as equipment.

- 2. The DAS SmART Unit should ensure that personnel files are complete, including having employees' Social Security numbers, INS / CIS Form I-9's, and items supporting pay increases on file. The DAS SmART Unit should also follow Section 11-8b of the Connecticut General Statutes, and the records retention schedules.**

Comments:

Social Security numbers were not on file for three of the four employees' personnel files reviewed. The U.S. Department of Justice INS I-9 Forms were not on file for one of the two sampled employees' who were hired after November 6, 1986. Annual Increases and PARS increases were awarded to a Manager in the MP 01 payplan that were not supported by an evaluation or PARS form. It also appears that these were awarded in error, which is addressed as part of Recommendation 3.

- 3. The DAS SmART Unit should review the Manager's annual salary, and adjust it accordingly. If an overpayment has in fact occurred, steps should be taken to recover the overpayment.**

Comments:

Annual Increases and PARS increases were awarded in 2004, 2005, and 2006 to a Manager in the MP 01 payplan that were not supported by an E-Item. It appears that these were awarded in error. The Manager's annual salary appears to be overstated by approximately \$10,000. The Manager appears to have been overpaid since October 2004, amounting to approximately \$35,000 as of the payperiod ending April 9, 2009.

(Note: As a result of this review, we identified an additional 11 managers from other agencies who appear to have received AI's in error and one who received two lump payments at maximum, totaling \$240,000 in possible overpayments from December 2003 to April 2009. We referred this matter to our Office's auditors located at the Department of Administrative Services, and it is being reported in their Auditors' Report for the Fiscal Years Ended June 30, 2006 and 2007 as Recommendation 15.)

## **INDEPENDENT AUDITORS' CERTIFICATION**

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Department of Public Utility Control and the Office of Consumer Counsel for the fiscal years ended June 30, 2006 and 2007. This audit was primarily limited to performing tests of each Agency's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of each Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Department of Public Utility Control and the Office of Consumer Counsel for the fiscal years ended June 30, 2006 and 2007 are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Department of Public Utility Control and Office of Consumer Counsel complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

### **Internal Control over Financial Operations, Safeguarding of Assets and Compliance:**

In planning and performing our audit, we considered the Department of Public Utility Control and the Office of Consumer Counsel's internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating each Agency's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of each Agency's internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance requirements was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be significant deficiencies.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects each Agency's ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by each Agency's internal control. We consider the following deficiencies described in the accompanying "Condition of Records" and "Recommendations" sections of this report to be significant deficiencies in internal control over financial operations, safeguarding of assets and compliance with requirements: DPUC Recommendation 2-Use of Core-CT for Assessment Billing and Accounts Receivable, Recommendation 4-Administration of the Nuclear Safety Emergency Preparedness Program, and Recommendation 6-Property Control and Inventory Reporting.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to each Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by each Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over each Agency's financial operations, safeguarding of assets, and compliance with requirements, was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that none of the significant deficiencies described above are material weaknesses.

We also noted certain matters which we reported to each Agency's management in the accompanying Condition of Records section of this report.

**Compliance and Other Matters:**

As part of obtaining reasonable assurance about whether the Department of Public Utility Control and the Office of Consumer Counsel complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters which we reported to each Agency's management in the accompanying "Condition of Records" and "Recommendations" sections of this report: Department of Public Utility Control: Recommendation 1-Use of the Equipment Appropriation, Recommendation 5-Call Before You Dig Penalties, Recommendation 7-Personnel Files, Delays in Processing Terminations and Failure to Terminate Leave Plans. Office of Consumer Counsel: Recommendation 1-Use of the Equipment Appropriation, Recommendation 2-Personnel Files, Records Retention and Unsupported Annual Increases, and Recommendation 3-Payroll-Unsupported and Erroneous Annual Increases.

The Department of Public Utility Control and the Office of Consumer Counsel's responses to the findings identified in our audit report is described in the accompanying Condition of Records sections of this report. We did not audit the response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the management of each agency, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

**CONCLUSION**

We wish to express our appreciation for the cooperation and courtesy extended to our representatives by the Department of Public Utility Control and the Office of Consumer Counsel during this examination.

Gary P. Kriscenski  
Principal Auditor

Approved:

Kevin P. Johnston  
Auditor of Public Accounts

Robert G. Jaekle  
Auditor of Public Accounts