Senate

General Assembly

File No. 238

February Session, 2006

Substitute Senate Bill No. 570

Senate, March 30, 2006

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ELECTRIC CONSUMER EMPOWERMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding the provisions of title 16 of the general statutes, customer-side distributed resources, as defined in section 16-1 of the 2006 supplement to the general statutes, including onsite customer cogeneration systems, installed on or after January 1, 2006, shall be eligible for a one-time three hundred dollar per kilowatt award to fund the capital costs of designing, engineering, procuring, installing and commissioning customer-side distributed resources located in the following municipalities: Ansonia, Branford, Beacon Falls, Bethany, Bethel, Bridgeport, Bridgewater, Brookfield, Cheshire, Danbury, Darien, Derby, East Haven, Easton, Fairfield, Greenwich, Hamden, Meriden, Middlebury, Milford, Monroe, Naugatuck, New Canaan, New Fairfield, New Milford, New Haven, Newtown, North Branford, North Haven, Norwalk, Orange, Oxford, Prospect, Redding, Ridgefield, Roxbury, Seymour, Shelton, Sherman, Southbury, Southington, Stamford, Stratford, Trumbull, Wallingford, Waterbury, Watertown, West Haven, Weston, Westport, Wilton, Wolcott, Woodbridge and Woodbury. Each award shall be recoverable from the federally mandated congestion charges. The Department of Public Utility Control may reject such an award if it finds that the value of the award significantly exceeds the benefit of making the award.

(b) In order to qualify for such an award, any customer shall submit an application, in a form prescribed by the Department of Revenue Services, to said department. The application shall contain a certification by an independent licensed engineer that the customer-side distributed resource is intended to operate for purposes of reducing customer peak electric loads and that the project is financially viable.

Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding the provisions of title 16 of the general statutes, customers who implement energy conservation or customer-side distributed resources, as defined in section 16-1 of the 2006 supplement to the general statutes, on or after April 1, 2007, shall be eligible for Class III renewable energy credits, pursuant to section 16-243q of the 2006 supplement to the general statutes. The Class III credit shall be not less than one cent per kilowatt hour or fifty per cent of the value of the Class I renewable energy credit, whichever is greater. The credits earned pursuant to this section shall be aggregated and directed to the Conservation and Load Management programs pursuant to section 16-245m of the 2006 supplement to the general statutes. Not later than January 1, 2007, the Department of Public Utility Control shall conduct a contested case proceeding in accordance with the provisions of chapter 54 of the general statutes, to develop a procedure for awarding and aggregating credits pursuant to this section.

(b) In order to be eligible for ongoing Class III renewable energy credits, the customer shall, annually, submit an application, in a form prescribed by the Department of Public Utility Control, to said department. The application shall require (1) certification by an independent licensed engineer, and (2) (A) the number of kilowatt hours generated from the customer-side distributed resource system for the annual period, or (B) the number of kilowatt hours reduced by the energy conservation investments for the annual period.

Sec. 3. (*Effective from passage*) (a) Notwithstanding the provisions of title 22a of the general statutes, the Department of Environmental Protection shall review any permit applications filed on or after January 1, 2006, and not later than January 1, 2010, that are necessary for the installation of customer-side distributed resources, as defined in section 16-1 of the 2006 supplement to the general statutes, including cogeneration systems that utilize fossil fuels as the primary fuel source in accordance with the following:

(1) The Department of Environmental Protection shall issue a final decision on a permit application for a proposed customer-side distributed resource with a gross electric output of ten megawatts or less not later than sixty days after the application submission date.

(2) The Department of Environmental Protection shall issue a final decision on a permit application for a proposed customer-side distributed resource with a gross electric output of more than ten megawatts not later than ninety days after the application submission date.

(b) Notwithstanding the provisions of title 22a of the general statutes, the Department of Environmental Protection shall review any permit applications filed on or after January 1, 2006, and not later than January 1, 2010, that are necessary for the installation of a non-customer-side distributed resource, as defined in section 16-1 of the 2006 supplement to the general statutes, including a cogeneration system that utilizes fossil fuels as the primary fuel source and issue a final decision on any such application not later than one hundred twenty days after the application submission date.

Sec. 4. (NEW) (*Effective from passage*) Notwithstanding the provisions of title 22a of the general statutes, the Department of Environmental Protection shall amend its air pollution regulations regarding emergency generation dispatch to allow owners of emergency generators to operate such generators on or after the effective date of this section and not later than January 1, 2010, during all hours under their current "Permit by Rule Authority" and up to the total hours or emission limits of their existing permits. This modification shall waive the current limitation that emergency generation units only operate in designated OP4 conditions instituted by the regional system operator and shall allow electric distribution companies and their customers to call on such units outside of OP4 conditions for purposes of managing electric loads during anticipated monthly or annual peak load hours.

Sec. 5. (*Effective from passage*) Notwithstanding the provisions of title 16a of the general statutes, on or after January 1, 2006, and not later than January 1, 2010, all proposed electric generation resource units, including municipal utility generation resources, with a unit size less than one hundred megawatts that would specifically be committed to the locational forward reserve market shall be exempt from the requirement of the Connecticut Energy Advisory Board's request-for-proposal process. This exemption shall be limited to the first five hundred megawatts of quick-start generation resources proposed after January 1, 2006.

Sec. 6. (NEW) (*Effective from passage*) (a) Notwithstanding the provisions of the general statutes, the state shall establish a financing program for electric conservation and customer-side distributed resources projects, which shall be administered by the Institute for Sustainable Energy. The program may finance not more than one hundred million dollars of electric conservation measures and not more than one hundred fifty million dollars for customer-side distributed resource projects. The costs borne by the institute for providing the financing, including, (1) cost of funds differential between zero per cent offered to participating customers and the actual financing interest rate, and (2) costs associated with defaults or late payments of principal shall be recovered in the rates of the electric distribution companies.

(b) On and after September 30, 2006, the Institute for Sustainable Energy shall use the financing program to provide low-cost financing for electric conservation and customer-side distributed resources installed by electricity users in the state on or after January 1, 2006. The financing program shall provide a subsidized financing rate of zero per cent for the cost of installing energy conservation and customer-side distributed resources. Customer financing shall be capped at the installed cost of qualified projects less any incentives received from the Energy Conservation Loan Fund or other state subsidy or grant. Installed costs shall include the costs of engineering, equipment procurement, installation costs and commissioning expenses.

(c) Customers shall apply to the financing program on an application prescribed by the Institute for Sustainable Energy, which application shall include, but not be limited to, (1) a description of the project, the total project installed cost, any incentives and subsidies received, (2) annual kilowatt hour savings, current dollar value of the annual kilowatt hour savings, and (3) a certification by an independent licensed engineer that the energy conservation or customer-side distributed resource project has been accurately described in the application, that the financial and energy savings information is accurate to the best of such engineer's knowledge, and the project reduces electric consumption and customer peak kilowatt demand.

(d) For purposes of determining the term of financing, each project shall be eligible for a maximum term rounded to the highest whole month equal to project cost, minus any incentives and subsidies received divided by the annual energy savings derived by using the average previous twelve months of electricity costs per kilowatt hour. The maximum term shall not exceed fifteen years. The customer shall pay the project monthly financing cost over the term of the loan in equal monthly installments. If a customer sells or transfers ownership of the energy conservation measure or the customer-side distributed resource, the obligations of the financing shall be transferable to the new owner.

(e) Electric generation companies, including investor-owned utilities and municipal-owned utilities may access this account and substitute it for current financing programs offered through their energy conservation programs up to seventy-five million dollars of the one hundred million dollars allocated for energy conservation and demand response resources. The allocation of the seventy-five million dollars between investor-owned electric utilities and municipal-owned electric utilities shall be based on a pro rata share of annual kilowatt hours sold to retail customers. Customers shall apply for financing on a first-come-first-served basis until the full amount of the fund has been depleted or upon reaching the expiration date of December 31, 2010.

(f) The Institute for Sustainable Energy shall annually evaluate the overall success of the program in determining the overall cost benefit of providing such program and submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to energy, not later than January 1, 2007, January 1, 2008, and January 1, 2009. The evaluation of the cost benefit of such program shall include (1) impacts on the reduction of federally mandated congestion charges, (2) impacts on the reduction of electric commodity prices, (3) enhancements and contributions to job creation, (4) impacts on state and local tax receipts, (5) impacts on environmental emission reductions, and (6) all other economic and environmental impacts that may have value to the state.

(g) The Institute for Sustainable Energy shall be allowed to contract with a third party financing entity qualified and licensed in the state to manage and administer project financing services and repetitive billing and collections services.

Sec. 7. (NEW) (*Effective from passage*) The Institute for Sustainable Energy shall perform customer credit qualification for the financing programs in section 6 of this act in accordance with industry practices and shall in the following parameters:

(1) In order to qualify for financing of energy conservation investments, a residential consumer shall complete and submit an application developed by the Institute for Sustainable Energy and a copy of his or her credit report dated not later than one month after the application date. In order to qualify for financing, the residential consumer shall have an adequate credit rating. Such credit review and approval shall be performed by the institute or a third party contracted by the institute. In no such circumstance shall the approval or rejection of credit be later than thirty days after the date of the application. Residential consumer financing shall be capped at fifteen thousand dollars per household.

(2) In order to qualify for financing of energy conservation or customer-side distributed resource investments, a commercial and industrial consumer shall complete and submit an application developed by the Institute for Sustainable Energy and a signed affidavit from the company's owner or executive management attesting to the financial condition of the company and its ability to fulfill its payment obligations. Such credit review and approval shall be performed by the institute or a third party contracted by the institute. In no such circumstance shall the approval or rejection of credit be later than thirty days after the date of the application.

(3) In order to qualify for financing of energy conservation or customer-side distributed resource investments, a municipal or government consumer shall complete and submit an application developed by the Institute for Sustainable Energy and the mayor or first selectperson attesting to the ability of the municipality or governmental entity to fulfill its payment obligations. Such credit review and approval shall be performed by the institute or a third party contracted by the institute. In no such circumstance shall the approval or rejection of credit be later than thirty days after the date of the application.

This act shall take effect as follows and shall amend the following sections:

Section 1	*from passage*	New section
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	New section
Sec. 4	*from passage*	New section
Sec. 5	*from passage*	New section
Sec. 6	*from passage*	New section
Sec. 7	*from passage*	New section

Statement of Legislative Commissioners:
In Subsec. (b) of section 6, revisions were made for purposes of consistency.

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 $	FY 08 $
All	Various - Cost	Potential	Potential
Department of Environmental Protection	EQ - Revenue Impact	See Below	See Below
Department of Environmental Protection	GF/EQ - Cost	See Below	See Below
Department of Revenue Services	GF - Cost	Indeterminate	Indeterminate
CT State Univ.	GF - None	None	None

Note: EQ=Environmental Quality Fund; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 $	FY 08 $
All Municipalities	Cost	Potential	Potential

Explanation

The bill provides electric customers located in southwest Connecticut a one time $300 per kilowatt award to fund capital costs related to customer side distributed resources. Under the bill, the awards are to be funded from the federally mandated congestion charge component on electric bills. As a result, the state and municipalities as rate payers could experience and increase in costs.

The bill also requires the Department of Revenue Services (DRS) to create and collect an application for customers applying for the award. It is unclear if DRS is responsible for; (1) certifying the customer as qualified for an award and (2) distribution of awards.

DRS's current responsibilities do not include evaluating grant applications but if the bill would require DRS to evaluate applications then it is likely DRS would need resources of at least $200,000 to administer the program. Also, no funding is provided to DRS to allocate awards.

It is anticipated that the Department of Environmental Protection will require an additional Engineer at a cost of $60,000 plus $14,160 for fringe benefits[1] in FY 07 to enable the DEP to expedite the permitting of electric generation facilities within the time frames established in the bill. The expedited revenue gain to the Environmental Quality Fund of the DEP attributable to the issuance of the minor source permits is estimated at $2,000 per permit. The total revenue is uncertain at this time.

It is also anticipated that requiring the DEP to amend their air pollution regulations will result in the need for outside resources, an additional employee, or the diversion of staff away from current duties at a cost of $75,000.

Finally it is anticipated that the Institute for Sustainable Energy located at Eastern Connecticut State University can establish a financing program for electric conservation and customer-side distributed resource measures within currently available and anticipated resources. Further the Institute can evaluate the programs costs and benefits with existing resources.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

[1] The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

OLR Bill Analysis

sSB 570

AN ACT CONCERNING ELECTRIC CONSUMER EMPOWERMENT.

SUMMARY:

This bill entitles electric customers in southwest Connecticut (generally, towns west of interstate 91 and south of interstate 84) to a $300 per kilowatt award to fund certain costs for customer-side distributed resources. These resources are (1) generation technologies such as microturbines or fuel cells with a capacity of up to 65 megawatts on a customer's premises) and (2) savings from conservation and load management programs. The awards are funded from a charge on electric bills. The Department of Public Utility Control (DPUC) may decline to pay an award if it finds that the award's cost significantly exceeds its benefit.

By law, electric companies must meet part of their demand with class III resources (certain types of customer-side distributed resources.) They can meet this requirement by buying credits from commercial and industrial customers who use class III resources to generate power or save energy. The bill sets a floor on the value of these credits and makes related changes.

The bill requires the Department of Environmental Protection (DEP) to take specified steps to expedite permitting of electric generation facilities and ease restrictions on the use of emergency generators.

By law, the Connecticut Energy Advisory Board (CEAB) must solicit and evaluate alternative proposals when an application is made to the Connecticut Siting Council to build a new power plant or transmission line. The bill exempts certain smaller power plants from this requirement.

Finally, the bill requires the Institute for Sustainable Energy to establish a low-cost financing program for electric conservation and customer-side distributed resources measures installed by customers on or after January 1, 2006. It specifies (1) the types of projects that are eligible for financing and application process, and (2) that the institute must evaluate the program's costs and benefits in 2007, 2008, and 2009.

EFFECTIVE DATE: Upon passage

BENEFITS FOR DISTRIBUTED RESOURCES

Capital Award

This bill gives owners of customer-side distributed resources located in southwest Connecticut a one-time $300 per kilowatt award to fund the capital costs of designing, engineering, procuring, installing, and commissioning the resources. (Although the bill does not define "commissioning," in practice, it refers to a series of steps to ensure that a system operates as designed.) The bill specifically includes on-site cogeneration systems installed on or after January 1, 2006; it appears that other systems would have to be installed on or after the bill's passage in order to be eligible for the award.

To qualify for the award, a customer must submit an application in a form the Department of Revenue Services prescribes. The application must include an independent licensed engineer's certification that the distributed resource is intended to operate to reduce the customer's peak electric load and that the project is financially viable. The cost of the awards is recovered from the federally mandated congestion charge component on electric bills.

Southwest Connecticut, for purposes of this bill, consists of the following towns: Ansonia, Branford, Beacon Falls, Bethany, Bethel, Bridgeport, Bridgewater, Brookfield, Cheshire, Danbury, Darien, Derby, East Haven, Easton, Fairfield, Greenwich, Hamden, Meriden, Middlebury, Milford, Monroe, Naugatuck, New Canaan, New Fairfield, New Milford, New Haven, Newtown, North Branford, North Haven, Norwalk, Orange, Oxford, Prospect, Redding, Ridgefield, Roxbury, Seymour, Shelton, Sherman, Southbury, Southington, Stamford, Stratford, Trumbull, Wallingford, Waterbury, Watertown, West Haven, Weston, Westport, Wilton, Wolcott, Woodbridge, and Woodbury.

Credits for Class III Resources

The bill entitles customers who implement energy conservation measures or install customer-side distributed resources on or after April 1, 2007 to Class III credits. To qualify for the credit, the customer must apply to DPUC on a form it prescribes. The application must include a certification from an independent licensed engineer and either (1) the number of kilowatt-hours generated by the system over the year or (2) the number of kilowatt-hours saved by energy conservation investments over this period.

The credit must be at least one cent per kilowatt hour or 50% of the value of the Class I renewable energy credit, whichever is greater. (The bill does not specify the period of time that would be used to calculate this value.) The Class III credit must be aggregated and directed to the conservation and load management programs established by existing law. By January 1, 2007, DPUC must conduct a contested case proceeding to develop a procedure for awarding and aggregating these credits.

DEP PERMITTING OF ELECTRIC GENERATION

The bill requires DEP to expedite the permitting of distributed resources. In the case of applications filed between January 1, 2006 and January 1, 2010 for a permit needed for customer-side distributed resources, including cogeneration that primarily uses fossil fuels, DEP must issue a final decision within 60 days of the submission date if a customer-side resource has a gross output of up to 10 megawatts and within 90 days if it is larger. In the case of non-customer-side resource (e.g., a generation resource located at an electric substation), DEP must issue the final decision within 120 days of the submission date (see COMMENT).

The bill requires DEP to waive certain restrictions on the use of emergency generators until January 1, 2010. Currently, such generators can only be used when power is out or an outage is imminent. The bill instead requires DEP to amend its regulations to allow customers and electric companies to use the generators at any time in order to manage electricity demand during anticipated monthly or annual peak hours. The bill does not affect caps on the total number of hours emergency generators can run each year or on the amount of pollution they can produce, as specified in the generator's air permit.

CONNECTICUT ENERGY ADVISORY BOARD PROCESS

By law, CEAB must solicit and evaluate alternative proposals when an application is made to the Connecticut Siting Council to build a new power plant or transmission line. If the proponent of an alternate proposal submits its own application to the Siting Council, the council must permit the best alternative.

The bill exempts certain smaller power plants from these requirements. The exemption applies to the first 500 megawatts of quick-start generation resources, in units of up to 100 megawatts, that are specifically committed to the "locational forward reserve market." The latter is an initiative of the New England wholesale electric market administrator that is designed to promote the construction of new power plants, particularly in Southwest Connecticut and other areas subject to transmission congestion. The bill applies to resources proposed between January 1, 2006 and January 1, 2010, including those proposed by municipal utilities.

FINANCING PROGRAM

Eligible Programs

The bill establishes a financing program for electric conservation and customer-side distributed resources projects, to be administered by the Institute for Sustainable Energy. The program may finance up to $100 million of conservation measures and up to $150 million for customer-side distributed resource projects. The bill does not specify the funding source for these funds. The institute's costs in operating the program are recovered in electric rates. These costs include (1) the spread between the 0% financing offered to participating customers and the actual financing interest rate and (2) costs associated with defaults or late payments of principal.

Starting September 30, 2006, the institute must use the funding to provide low-cost financing for electric conservation and customer-side distributed resources installed by electricity users in the state on or after January 1, 2006. (The bill thus contemplates financing existing as well as new projects.) The financing fund must provide a 0% loan for the cost of installing conservation and customer-side distributed resources. Financing must be capped at the installed cost of qualified projects less any incentives received from the Energy Conservation Loan Fund or other state subsidy or grant. Installed costs include the costs of engineering, equipment procurement, installation costs, and commissioning expenses.

The institute can contract with a third-party financing entity qualified and licensed in the state to manage and administer project financing services and billing and collections services.

Electric generation companies, electric companies, and municipal electric utilities may access this account and substitute it for current financing programs offered through their energy conservation programs for up to $75 million dollars of the combined amount allocated for energy conservation and demand-response resources. The allocation between electric companies and municipal utilities must be based on their shares of retail sales of annual kilowatt hours sold to retail customers. (The bill does not specify how the shares of electric generators is determined.)

Application Procedures

All customers must apply for financing on an application prescribed by the institute. The application must at least include (1) the project's description, its total installed cost, and any incentives and subsidies received; (2) annual kilowatt hour savings and the current dollar value of these savings; and (3) a certification by an independent licensed engineer that the project has been accurately described in the application, that the financial and energy savings information is accurate to the best of the engineer's knowledge, and the project reduces electric consumption and customer peak kilowatt demand. Customers are eligible for financing on a first-come-first-served basis until the full amount of the fund is depleted or December 31, 2010, whichever comes first.

Residential customers seeking funding for a conservation project must also submit a copy of their credit report dated not later than one month after the application date. The customer must have an adequate credit rating. Residential consumer financing is capped at $15,000 per household. Commercial and industrial customers seeking funding for an energy conservation or customer-side distributed resource project must submit an affidavit signed by the company's owner or executive management attesting to the company's financial condition and its ability to fulfill its payment obligations. The mayor or first selectman of a government entity seeking funding for a conservation or distributed resource project must attest to its ability to fulfill its payment obligations. In each case, the institute or a third party it contracts with must conduct the credit review and approve or reject the application within 30 days of the date of application.

The maximum financing term is the project's payback period. This period is the project's cost, minus any incentives and subsidies received, divided by the annual energy savings based on the average previous 12 months of electricity costs per kilowatt-hour. Thus, if a project's net cost is $10,000 and it saves the customer $1,000 per year, the maximum term of financing for the project is 10 years. The maximum term in any case is 15 years. The customer must pay the project monthly financing cost over the term of the loan in equal monthly installments. If a customer sells or transfers ownership of the energy conservation measure or the customer-side distributed resource, the financing obligations can be transferred to the new owner.

Program Evaluation

The institute must evaluate the overall success of the program annually by determining its overall cost/benefit ratio. The institute must submit a report to the Energy and Technology Committee by January 1 in 2007, 2008, and 2009. The evaluation of the program's costs and benefits must include (1) impact on the reduction of federally mandated congestion charges, (2) the reduction of electric commodity prices, (3) enhancements and contributions to job creation, (4) impact on state and local tax receipts, (5) environmental emission reductions, and (6) any other economic and environmental impact that may have value to the state.

COMMENT

Deadline for DEP to Issue Permits

The bill requires DEP to review permit applications submitted on or after January 1, 2006 within certain periods of time. In some cases, this period has already passed and it is unclear what DEP is required to do in these cases. For example, under the bill, DEP would have been required to review an application for customer-side resource having up to 10 megawatts of capacity that was filed on January 1, 2006 by March 1, 2006.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute				
Yea	17	Nay	1	(03/14/2006)