



General Assembly

January Session, 2007

**Raised Bill No. 7308**

LCO No. 5063

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Referred to Committee on Energy and Technology

Introduced by:  
(ET)

**AN ACT CONCERNING RESOURCE RECOVERY OUTPUT  
PURCHASE REQUIREMENTS AND INDIRECT COSTS AND  
REMEDIES FOR PUBLIC SERVICE COMPANIES.**

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

1 Section 1. Section 16-243a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) As used in this section, "avoided costs" means the incremental  
4 costs to an electric public service company, municipal electric energy  
5 cooperative organized under chapter 101a or municipal electric utility  
6 organized under chapter 101, of electric energy or capacity or both  
7 which, but for the purchase from a private power producer, as defined  
8 in section 16-243b, such company, cooperative or utility would  
9 generate itself or purchase from another source. For the purposes of  
10 this section, an electric distribution company's avoided cost is zero if  
11 the company purchases its generation services requirements pursuant  
12 to section 16-244c.

13 (b) Each electric public service company, municipal electric energy  
14 cooperative and municipal electric utility shall: (1) Purchase any

15 electrical energy and capacity made available, directly by a private  
16 power producer or indirectly under subdivision (4) of this subsection,  
17 provided that such purchase requirements shall apply only if the  
18 company, cooperative or utility has a mandatory obligation to  
19 purchase energy and capacity from the private producer in accordance  
20 with the October 20, 2006, Final Rule of the Federal Energy Regulatory  
21 Commission implementing the Energy Policy Act of 2005 and  
22 modifying the purchase obligations under the Public Utility  
23 Regulatory Policies Act; (2) sell backup electricity to any private power  
24 producer in its service territory; (3) make such interconnections  
25 necessary to accomplish such purchases and sales; (4) upon approval  
26 by the Department of Public Utility Control of an application filed by a  
27 willing private power producer, transmit energy or capacity from the  
28 private power producer to any other such company, cooperative or  
29 utility or to another facility operated by the private power producer;  
30 and (5) offer to operate in parallel with a private power producer. In  
31 making a decision on an application filed under subdivision (4) of this  
32 subsection, the department shall consider whether such transmission  
33 would (A) adversely impact the customers of the company,  
34 cooperative or utility which would transmit energy or capacity to the  
35 private power producer, (B) result in an uncompensated loss for, or  
36 unduly burden, such company, cooperative, utility or private power  
37 producer, (C) impair the reliability of service of such company,  
38 cooperative or utility, or (D) impair the ability of the company,  
39 cooperative or utility to provide adequate service to its customers. The  
40 department shall issue a decision on such an application not later than  
41 one hundred twenty days after the application is filed, provided, the  
42 department may, before the end of such period and upon notifying all  
43 parties and intervenors to the proceeding, extend the period by thirty  
44 days. If the department does not issue a decision within one hundred  
45 twenty days after receiving such an application, or within one hundred  
46 fifty days if the department extends the period in accordance with the  
47 provisions of this subsection, the application shall be deemed to have  
48 been approved. The requirements under subdivisions (3), (4) and (5) of

49 this subsection shall be subject to reasonable standards for operating  
50 safety and reliability and the nondiscriminatory assessment of costs  
51 against private power producers, approved by the Department of  
52 Public Utility Control with respect to electric public service companies  
53 or determined by municipal electric energy cooperatives and  
54 municipal electric utilities.

55 (c) The Department of Public Utility Control, with respect to electric  
56 public service companies, and each municipal electric energy  
57 cooperative and municipal electric utility shall establish rates and  
58 conditions of service for: (1) The purchase of electrical energy and  
59 capacity made available by a private power producer, and (2) the sale  
60 of backup electricity to a private power producer, provided that such  
61 purchase requirements shall apply only if the company, cooperative or  
62 utility has a mandatory obligation to purchase energy and capacity  
63 from the private producer in accordance with the October 20, 2006,  
64 Final Rule of the Federal Energy Regulatory Commission  
65 implementing the Energy Policy Act of 2005 and modifying the  
66 purchase obligations under the Public Utility Regulatory Policies Act.  
67 The rates for electricity purchased from a private power producer shall  
68 be based on the full avoided costs of the electric public service  
69 company, municipal electric energy cooperative or municipal electric  
70 utility, regardless of whether the purchaser is simultaneously making  
71 sales to the private power producer. Payment for energy and capacity  
72 purchased from a private power producer by any such company,  
73 cooperative or utility shall be pursuant to such rates and conditions or  
74 the terms of a contract between the parties. The rates and conditions of  
75 service for the purchase of energy and capacity established by the  
76 department pursuant to this subsection shall include specific schedules  
77 for pricing in long-term contracts for the sale of electricity from small  
78 renewable power projects to electric public service companies by  
79 private power producers. Such schedules shall not exceed the present  
80 worth of the projected avoided costs of the electric public service  
81 company over the term of the contract. The department shall apply to  
82 a proposed contract filed with the department after January 1, 1992, by

83 a private power producer for a small renewable power project the rates  
84 and conditions of service, including the pricing schedule, in effect on  
85 the date the private power producer submits its proposed contract to  
86 the department, regardless of the subsequent creation of differing  
87 schedules or the subsequent amendment of existing schedules.

88 (d) When any person, firm or corporation who meets the  
89 requirements of the October 20, 2006, Final Rule of the Federal Energy  
90 Regulatory Commission to require the mandatory purchase of energy  
91 and capacity proposes to enter into a contract to sell energy and  
92 capacity as a private power producer, an electric public service  
93 company, municipal electric energy cooperative or municipal electric  
94 utility shall respond promptly to all requests and offers and negotiate  
95 in good faith to arrive at a contract which fairly reflects the provisions  
96 of this section and the anticipated avoided costs over the life of the  
97 contract. Upon application by a private power producer, the  
98 department may approve a contract which provides for payment of  
99 less than the anticipated avoided costs if, considering all of the  
100 provisions, the contract is at least as favorable to the private power  
101 producer as a contract providing for the full avoided costs. The  
102 contract may extend for a period of not more than thirty years at the  
103 option of the private power producer if it has a generating facility with  
104 a capacity of at least one hundred kilowatts.

105 (e) The department shall consider generating capacity available  
106 from cogeneration technology and renewable energy resources in its  
107 periodic reviews of electric public service companies and shall require  
108 the companies to include the availability of such capacity in  
109 applications for rate relief filed in accordance with section 16-19a.

110 (f) If a private power producer believes that an electric company has  
111 violated any provision of this section it may submit a written petition  
112 alleging such violation to the department. Upon receipt of the petition,  
113 the department shall fix a time and place for a hearing and mail notice  
114 of the hearing to the parties in interest at least one week in advance.

115 Upon the hearing, the department may, if it finds the company has  
116 violated any such provision, prescribe the manner in which it shall  
117 comply.

118 (g) After January 1, 1992, the department shall approve each  
119 proposed contract submitted by a private power producer for a small  
120 renewable power project, with any modifications agreed to by the  
121 parties to the contract, if the filing meets the standards for exemption  
122 from the proposal process and for an approvable contract established  
123 pursuant to section 16-6b, and is consistent with the pricing schedules  
124 adopted pursuant to subsection (c) of this section. Nothing in this  
125 section shall preclude a modification of such a contract if the parties to  
126 the contract agree to the modification. Any such modification shall be  
127 approved by the department. The department shall reconsider each  
128 decision issued pursuant to this section between January 1, 1992, and  
129 June 29, 1993, regarding such contracts and shall make any  
130 modifications to each such decision necessary to ensure that each such  
131 decision conforms with the provisions of this section.

132 Sec. 2. Section 16-243e of the general statutes is repealed and the  
133 following is substituted in lieu thereof (*Effective from passage*):

134 (a) [Any] Except as provided in subsection (b) of this section, any  
135 electric company, as defined in section 16-1, [purchasing] that, prior to  
136 the effective date of this section, purchased electricity generated by a  
137 resources recovery facility, as defined in section 22a-260, owned by, or  
138 operated by or for the benefit of, a municipality or municipalities,  
139 [shall enter into] pursuant to a contract with the owner of such facility  
140 requiring the electric company to purchase all of the electricity  
141 generated at such facility from waste [which] that originated in the  
142 franchise area of the electric company, for a period beginning on the  
143 date that the facility [begins] began generating electricity and having a  
144 duration of not less than twenty years, at the same rate that the electric  
145 company charges the municipality or municipalities for electricity,  
146 shall pay the rate set forth in the contract or, for contracts entered into

147 during calendar year 1999, the rate established by the department, for  
148 the remaining period of the contract. No electric company or electric  
149 distribution company shall be required to enter into such a contract on  
150 or after the effective date of this section.

151 (b) [Not later than April 1, 2000, the department shall determine the  
152 rate paid for electricity generated at the facility, from waste that  
153 originated within the electric company's franchise area and that was  
154 purchased under each contract entered into pursuant to subsection (a)  
155 of this section, during calendar year 1999.] Not later than October 1,  
156 2000, and annually thereafter, the department shall calculate the  
157 difference between the amount paid by the successor electric  
158 distribution company pursuant to each such contract in effect during  
159 the preceding fiscal year for electricity generated at the facility from  
160 waste that originated within such franchise area and the amount that  
161 would have been paid had the company been obligated to pay the rate  
162 in effect during calendar year 1999, as determined by the department.  
163 The difference, if positive, shall be recovered through the systems  
164 benefits charge established under section 16-245l and remitted to the  
165 regional resource recovery authority acting on behalf of member  
166 municipalities.

167 Sec. 3. Subsection (b) of section 16-19b of the general statutes is  
168 repealed and the following is substituted in lieu thereof (*Effective July*  
169 *1, 2007*):

170 (b) (1) If the department finds that the changed price of purchased  
171 gas required for distribution by a gas company substantially threatens  
172 the ability of the company to earn a reasonable rate of return, or will  
173 cause the company to have an excessive rate of return, the department  
174 shall, after investigation and public hearing, approve a suitable  
175 purchased gas adjustment clause to be superimposed upon the  
176 existing rate schedule of the company. The department shall design  
177 any such purchased gas adjustment clause to allow the gas company to  
178 charge or to reimburse the consumer only for the changes in the cost of

179 purchased gas and associated indirect gas costs, including, but not  
 180 limited to, the commodity portion of uncollectibles, commodity related  
 181 working capital and carry costs of commodity inventory, which occur  
 182 when the actual price of purchased gas differs from the price reflected  
 183 in the base rates of the company. The department may establish an  
 184 efficiency factor in the purchased gas adjustment clause of each gas  
 185 company, which may provide for less than one hundred per cent  
 186 recovery of the gross earnings tax imposed by section 12-264 on the  
 187 revenues from such purchased gas. A purchased gas adjustment clause  
 188 approved pursuant to this section shall apply to all gas companies  
 189 similarly affected by the costs which form the basis for the adjustment  
 190 clause.

191 (2) The department shall allow a gas company to reconcile the  
 192 differences between the actual indirect costs associated with  
 193 commodity and those indirect costs included in the gas company's  
 194 base delivery rates through the gas company's purchased gas  
 195 adjustment clause.

196 Sec. 4. Subdivision (3) of subsection (a) of section 16-262f of the  
 197 general statutes is repealed and the following is substituted in lieu  
 198 thereof (*Effective July 1, 2007*):

199 (3) The receiver appointed by the court shall collect all rents or  
 200 payments for use and occupancy or common expenses forthcoming  
 201 from or paid on behalf of the occupants or residents of the building or  
 202 facility in question in place of the owner, agent, lessor, [or] manager or  
 203 administrator.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	16-243a
Sec. 2	<i>from passage</i>	16-243e
Sec. 3	<i>July 1, 2007</i>	16-19b(b)
Sec. 4	<i>July 1, 2007</i>	16-262f(a)(3)

***Statement of Purpose:***

To amend the avoided cost rates for electric output; to eliminate the requirement that electric companies contract with resource recovery facilities to purchase electricity generated from waste originating in the company's franchise area; to allow gas companies to reconcile their indirect commodity costs; and to provide utility receivership remedy to utilities when nursing homes do not pay for services.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*