



Substitute Senate Bill No. 368

Public Act No. 08-77

AN ACT CONCERNING THERMAL ENERGY TRANSPORTATION.

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

Section 1. Section 16-1 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Terms used in this title and in chapters 244, 244a, 244b, 245, 245a and 245b* shall be construed as follows, unless another meaning is expressed or is clearly apparent from the language or context:

(1) "Authority" means the Public Utilities Control Authority and "department" means the Department of Public Utility Control;

(2) "Commissioner" means a member of said authority;

(3) "Commissioner of Transportation" means the Commissioner of Transportation appointed under section 13b-3;

(4) "Public service company" includes electric, electric distribution, gas, telephone, telegraph, pipeline, sewage, water and community antenna television companies and holders of a certificate of cable franchise authority, owning, leasing, maintaining, operating, managing or controlling plants or parts of plants or equipment, and all

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express companies having special privileges on railroads within this state, but shall not include telegraph company functions concerning intrastate money order service, towns, cities, boroughs, any municipal corporation or department thereof, whether separately incorporated or not, a private power producer, as defined in section 16-243b, or an exempt wholesale generator, as defined in 15 USC 79z-5a;

(5) "Plant" includes all real estate, buildings, tracks, pipes, mains, poles, wires and other fixed or stationary construction and equipment, wherever located, used in the conduct of the business of the company;

(6) "Railroad company" includes every person owning, leasing, maintaining, operating, managing or controlling any railroad, or any cars or other equipment employed thereon or in connection therewith, for public or general use within this state;

(7) "Street railway company" includes every person owning, leasing, maintaining, operating, managing or controlling any street railway, or any cars or other equipment employed thereon or in connection therewith, for public or general use within this state;

(8) "Electric company" includes, until an electric company has been unbundled in accordance with the provisions of section 16-244e of the 2008 supplement to the general statutes, every person owning, leasing, maintaining, operating, managing or controlling poles, wires, conduits or other fixtures, along public highways or streets, for the transmission or distribution of electric current for sale for light, heat or power within this state, or, engaged in generating electricity to be so transmitted or distributed for such purpose, but shall not include (A) a private power producer, as defined in section 16-243b, (B) an exempt wholesale generator, as defined in 15 USC 79z-5a, (C) a municipal electric utility established under chapter 101, (D) a municipal electric energy cooperative established under chapter 101a, (E) an electric cooperative established under chapter 597, or (F) any other electric

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utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act;

(9) "Gas company" includes every person owning, leasing, maintaining, operating, managing or controlling mains, pipes or other fixtures, in public highways or streets, for the transmission or distribution of gas for sale for heat or power within this state, or engaged in the manufacture of gas to be so transmitted or distributed for such purpose, but shall not include a person manufacturing gas through the use of a biomass gasification plant provided such person does not own, lease, maintain, operate, manage or control mains, pipes or other fixtures in public highways or streets, a municipal gas utility established under chapter 101 or any other gas utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act;

(10) "Water company" includes every person owning, leasing, maintaining, operating, managing or controlling any pond, lake, reservoir, stream, well or distributing plant or system employed for the purpose of supplying water to fifty or more consumers. A water company does not include homeowners, condominium associations providing water only to their members, homeowners associations providing water to customers at least eighty per cent of whom are members of such associations, a municipal waterworks system established under chapter 102, a district, metropolitan district, municipal district or special services district established under chapter 105, chapter 105a or any other general statute or any public or special act which is authorized to supply water, or any other waterworks system owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act;

(11) "Consumer" means any private dwelling, boardinghouse,

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apartment, store, office building, institution, mechanical or manufacturing establishment or other place of business or industry to which water is supplied by a water company;

(12) "Sewage company" includes every person owning, leasing, maintaining, operating, managing or controlling, for general use in any town, city or borough, or portion thereof, in this state, sewage disposal facilities which discharge treated effluent into any waterway of this state;

(13) "Pipeline company" includes every person owning, leasing, maintaining, operating, managing or controlling mains, pipes or other fixtures through, over, across or under any public land, water, parkways, highways, parks or public grounds for the transportation, transmission or distribution of petroleum products for hire within this state;

(14) "Community antenna television company" includes every person owning, leasing, maintaining, operating, managing or controlling a community antenna television system, in, under or over any public street or highway, for the purpose of providing community antenna television service for hire and shall include any municipality which owns or operates one or more plants for the manufacture or distribution of electricity pursuant to section 7-213 or any special act and seeks to obtain or obtains a certificate of public convenience and necessity to construct or operate a community antenna television system pursuant to section 16-331 of the 2008 supplement to the general statutes or a certificate of cable franchise authority pursuant to section 16-331q of the 2008 supplement to the general statutes. "Community antenna television company" does not include a certified competitive video service provider;

(15) "Community antenna television service" means (A) the one-way transmission to subscribers of video programming or information that

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a community antenna television company makes available to all subscribers generally, and subscriber interaction, if any, which is required for the selection of such video programming or information, and (B) noncable communications service. "Community antenna television service" does not include video service provided by a certified competitive video service provider;

(16) "Community antenna television system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide community antenna television service which includes video programming and which is provided in, under or over any public street or highway, for hire, to multiple subscribers within a franchise, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility is located in, under or over a public street or highway; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Subchapter II of Chapter 5 of the Communications Act of 1934, 47 USC 201 et seq., as amended, except that such facility shall be considered a community antenna television system and the carrier shall be considered a public service company to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) a facility of an electric company which is used solely for operating its electric company systems. "Community antenna television system" does not include a facility used by a certified competitive video service provider to provide video service;

(17) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station;

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(18) "Noncable communications service" means any telecommunications service, as defined in section 16-247a, and which is not included in the definition of "cable service" in the Communications Act of 1934, 47 USC 522, as amended. Nothing in this definition shall be construed to affect service which is both authorized and preempted pursuant to federal law;

(19) "Public service motor vehicle" includes all motor vehicles used for the transportation of passengers for hire;

(20) "Motor bus" includes any public service motor vehicle operated in whole or in part upon any street or highway, by indiscriminately receiving or discharging passengers, or operated on a regular route or over any portion thereof, or operated between fixed termini, and any public service motor vehicle operated over highways within this state between points outside this state or between points within this state and points outside this state;

(21) "Cogeneration technology" means the use for the generation of electricity of exhaust steam, waste steam, heat or resultant energy from an industrial, commercial or manufacturing plant or process, or the use of exhaust steam, waste steam or heat from a thermal power plant for an industrial, commercial or manufacturing plant or process, but shall not include steam or heat developed solely for electrical power generation;

(22) "Renewable fuel resources" means energy sources described in subdivisions (26) and (27) of this subsection;

(23) "Telephone company" means a telecommunications company that provides one or more noncompetitive or emerging competitive services, as defined in section 16-247a;

(24) "Domestic telephone company" includes any telephone company which has been chartered by or organized or constituted

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within or under the laws of this state;

(25) "Telecommunications company" means a person that provides telecommunications service, as defined in section 16-247a, within the state, but shall not mean a person that provides only (A) private telecommunications service, as defined in section 16-247a, (B) the one-way transmission of video programming or other programming services to subscribers, (C) subscriber interaction, if any, which is required for the selection of such video programming or other programming services, (D) the two-way transmission of educational or instructional programming to a public or private elementary or secondary school, or a public or independent institution of higher education, as required by the department pursuant to a community antenna television company franchise agreement, or provided pursuant to a contract with such a school or institution which contract has been filed with the department, or (E) a combination of the services set forth in subparagraphs (B) to (D), inclusive, of this subdivision;

(26) "Class I renewable energy source" means (A) energy derived from solar power, wind power, a fuel cell, methane gas from landfills, ocean thermal power, wave or tidal power, low emission advanced renewable energy conversion technologies, a run-of-the-river hydropower facility provided such facility has a generating capacity of not more than five megawatts, does not cause an appreciable change in the river flow, and began operation after July 1, 2003, or a sustainable biomass facility with an average emission rate of equal to or less than .075 pounds of nitrogen oxides per million BTU of heat input for the previous calendar quarter, except that energy derived from a sustainable biomass facility with a capacity of less than five hundred kilowatts that began construction before July 1, 2003, may be considered a Class I renewable energy source, or (B) any electrical generation, including distributed generation, generated from a Class I renewable energy source;

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(27) "Class II renewable energy source" means energy derived from a trash-to-energy facility, a biomass facility that began operation before July 1, 1998, provided the average emission rate for such facility is equal to or less than .2 pounds of nitrogen oxides per million BTU of heat input for the previous calendar quarter, or a run-of-the-river hydropower facility provided such facility has a generating capacity of not more than five megawatts, does not cause an appreciable change in the riverflow, and began operation prior to July 1, 2003;

(28) "Electric distribution services" means the owning, leasing, maintaining, operating, managing or controlling of poles, wires, conduits or other fixtures along public highways or streets for the distribution of electricity, or electric distribution-related services;

(29) "Electric distribution company" or "distribution company" means any person providing electric transmission or distribution services within the state, including an electric company, subject to subparagraph (F) of this subdivision, but does not include: (A) A private power producer, as defined in section 16-243b; (B) a municipal electric utility established under chapter 101, other than a participating municipal electric utility; (C) a municipal electric energy cooperative established under chapter 101a; (D) an electric cooperative established under chapter 597; (E) any other electric utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or special act; (F) after an electric company has been unbundled in accordance with the provisions of section 16-244e of the 2008 supplement to the general statutes, a generation entity or affiliate of the former electric company; or (G) an electric supplier;

(30) "Electric supplier" means any person, including an electric aggregator or participating municipal electric utility that is licensed by the Department of Public Utility Control in accordance with section 16-245, that provides electric generation services to end use customers

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in the state using the transmission or distribution facilities of an electric distribution company, regardless of whether or not such person takes title to such generation services, but does not include: (A) A municipal electric utility established under chapter 101, other than a participating municipal electric utility; (B) a municipal electric energy cooperative established under chapter 101a; (C) an electric cooperative established under chapter 597; (D) any other electric utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or special act; or (E) an electric distribution company in its provision of electric generation services in accordance with subsection (a) or, prior to January 1, 2004, subsection (c) of section 16-244c of the 2008 supplement to the general statutes;

(31) "Electric aggregator" means (A) a person, municipality or regional water authority that gathers together electric customers for the purpose of negotiating the purchase of electric generation services from an electric supplier, or (B) the Connecticut Resources Recovery Authority, if it gathers together electric customers for the purpose of negotiating the purchase of electric generation services from an electric supplier, provided such person, municipality or authority is not engaged in the purchase or resale of electric generation services, and provided further such customers contract for electric generation services directly with an electric supplier, and may include an electric cooperative established pursuant to chapter 597;

(32) "Electric generation services" means electric energy, electric capacity or generation-related services;

(33) "Electric transmission services" means electric transmission or transmission-related services;

(34) "Generation entity or affiliate" means a corporate affiliate or, as provided in subdivision (3) of subsection (a) of section 16-244e of the

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2008 supplement to the general statutes, a separate division of an electric company after unbundling has occurred pursuant to section 16-244e of the 2008 supplement to the general statutes, that provides electric generation services;

(35) "Participating municipal electric utility" means a municipal electric utility established under chapter 101 or any other electric utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act, that is authorized by the department in accordance with section 16-245c to provide electric generation services to end use customers outside its service area, as defined in section 16-245c;

(36) "Person" means an individual, business, firm, corporation, association, joint stock association, trust, partnership or limited liability company;

(37) "Regional independent system operator" means the "ISO - New England, Inc.", or its successor organization as approved by the Federal Energy Regulatory Commission;

(38) "Certified telecommunications provider" means a person certified by the department to provide intrastate telecommunications services, as defined in section 16-247a, pursuant to sections 16-247f to 16-247h, inclusive;

(39) "Gas registrant" means a person registered to sell natural gas pursuant to section 16-258a;

(40) "Customer-side distributed resources" means (A) the generation of electricity from a unit with a rating of not more than sixty-five megawatts on the premises of a retail end user within the transmission and distribution system including, but not limited to, fuel cells, photovoltaic systems or small wind turbines, or (B) a reduction in the demand for electricity on the premises of a retail end user in the

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distribution system through methods of conservation and load management, including, but not limited to, peak reduction systems and demand response systems;

(41) "Federally mandated congestion charges" means any cost approved by the Federal Energy Regulatory Commission as part of New England Standard Market Design including, but not limited to, locational marginal pricing, locational installed capacity payments, any cost approved by the Department of Public Utility Control to reduce federally mandated congestion charges in accordance with section 7-233y, this section, sections 16-19ss of the 2008 supplement to the general statutes, 16-32f of the 2008 supplement to the general statutes, 16-50i, 16-50k of the 2008 supplement to the general statutes, 16-50x of the 2008 supplement to the general statutes, 16-243i to 16-243q, inclusive, 16-244c of the 2008 supplement to the general statutes, 16-244e of the 2008 supplement to the general statutes, 16-245m of the 2008 supplement to the general statutes, 16-245n of the 2008 supplement to the general statutes and 16-245z, and section 21 of public act 05-1 of the June special session** and reliability must run contracts;

(42) "Combined heat and power system" means a system that produces, from a single source, both electric power and thermal energy used in any process that results in an aggregate reduction in electricity use;

(43) "Grid-side distributed resources" means the generation of electricity from a unit with a rating of not more than sixty-five megawatts that is connected to the transmission or distribution system, which units may include, but are not limited to, units used primarily to generate electricity to meet peak demand;

(44) "Class III source" means the electricity output from combined heat and power systems with an operating efficiency level of no less

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than fifty per cent that are part of customer-side distributed resources developed at commercial and industrial facilities in this state on or after January 1, 2006, a waste heat recovery system installed on or after April 1, 2007, that produces electrical or thermal energy by capturing preexisting waste heat or pressure from industrial or commercial processes, or the electricity savings created in this state from conservation and load management programs begun on or after January 1, 2006;

(45) "Sustainable biomass" means biomass that is cultivated and harvested in a sustainable manner. "Sustainable biomass" does not mean construction and demolition waste, as defined in section 22a-208x, finished biomass products from sawmills, paper mills or stud mills, organic refuse fuel derived separately from municipal solid waste, or biomass from old growth timber stands, except where (A) such biomass is used in a biomass gasification plant that received funding prior to May 1, 2006, from the Renewable Energy Investment Fund established pursuant to section 16-245n of the 2008 supplement to the general statutes, or (B) the energy derived from such biomass is subject to a long-term power purchase contract pursuant to subdivision (2) of subsection (j) of section 16-244c of the 2008 supplement to the general statutes entered into prior to May 1, 2006, or (C) such biomass is used in a renewable energy facility that is certified as a Class I renewable energy source by the department until such time as the department certifies that any biomass gasification plan, as defined in this subsection, is operational and accepting such biomass;

(46) "Video service" means video programming services provided through wireline facilities, a portion of which are located in the public right-of-way, without regard to delivery technology, including Internet protocol technology. "Video service" does not include any video programming provided by a commercial mobile service provider, as defined in 47 USC 332(d), any video programming provided as part of

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community antenna television service in a franchise area as of October 1, 2007, any video programming provided as part of and via a service that enables users to access content, information, electronic mail or other services over the public Internet;

(47) "Certified competitive video service provider" means an entity providing video service pursuant to a certificate of video franchise authority issued by the department in accordance with section 16-331e of the 2008 supplement to the general statutes. "Certified competitive video service provider" does not mean an entity issued a certificate of public convenience and necessity in accordance with section 16-331 of the 2008 supplement to the general statutes or the affiliates, successors and assigns of such entity or an entity issued a certificate of cable franchise authority in accordance with section 16-331p of the 2008 supplement to the general statutes or the affiliates, successors and assignees of such entity;

(48) "Certificate of video franchise authority" means an authorization issued by the Department of Public Utility Control conferring the right to an entity or person to own, lease, maintain, operate, manage or control facilities in, under or over any public highway to offer video service to any subscribers in the state; [and]

(49) "Certificate of cable franchise authority" means an authorization issued by the Department of Public Utility Control pursuant to section 16-331q of the 2008 supplement to the general statutes conferring the right to a community antenna television company to own, lease, maintain, operate, manage or control a community antenna television system in, under or over any public highway to (A) offer community antenna television service in a community antenna television company's designated franchise area, or (B) use the public rights-of-way to offer video service in a designated franchise area. The certificate of cable franchise authority shall be issued as an alternative to a certificate of public convenience and necessity pursuant to section

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16-331 of the 2008 supplement to the general statutes and shall only be available to a community antenna television company under the terms specified in sections 16-331q to 16-331aa, inclusive; and

(50) "Thermal Energy transportation company" means any person authorized under any provision of the general statutes or special act to furnish heat or air conditioning or both, by means of steam, heated or chilled water or other medium, to lay and maintain mains, pipes or other conduits, and to erect such other fixtures necessary or convenient in and on the streets, highways and public grounds of any municipality to carry steam, heated or chilled water or other medium from such plant to the location to be served and to return the same.

(b) Notwithstanding any provision of the general statutes, the terms "utility", "public utility" and "public service company" shall be deemed to include a community antenna television company and a holder of a certificate of cable franchise authority, except (1) as otherwise provided in sections 16-8, 16-27 of the 2008 supplement to the general statutes, 16-28 and 16-43 of the 2008 supplement to the general statutes, (2) that no provision of the general statutes, including but not limited to, the provisions of sections 16-6b and 16-19, shall subject a community antenna television company to regulation as a common carrier or utility by reason of providing community antenna television service, other than noncable communications service, as provided in Subchapter V-A of Chapter 5 of the Communications Act of 1934, 47 USC 521 et seq., as amended, and (3) that no provision of the general statutes, including but not limited to, sections 16-6b and 16-19, shall apply to community antenna television companies to the extent any such provision is preempted pursuant to any other provision of the Communications Act of 1934, 47 USC 151 et seq., as amended, any other federal act or any regulation adopted thereunder.

Sec. 2. Section 3 of number 7 of the special acts of 1961, as amended by special act 97-1, is amended to read as follows (*Effective from*

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passage):

(a) Said corporation is authorized and empowered, either directly or through the agency of its parent, a subsidiary or an affiliate: To furnish, from plants located in the city of Hartford, heat or air conditioning, or both, by means of steam, heated or chilled water or other medium; to lay and maintain mains, pipes or other conduits, and to erect such other fixtures as are or may be necessary or convenient in and on the streets, highways and public grounds of said city, for the purpose of carrying steam, heated or chilled water or other medium from such plants to the location to be served and returning the same; and to lease to one or more corporations formed under the general law or specially chartered for the purpose of furnishing heat or air conditioning, or both, one or more of such plants or distribution systems, or both, owned by it and constructed or adapted for either or both of such purposes.

(b) On and before May 7, 2008, (1) under no circumstances shall said corporation, parent, subsidiary or affiliate terminate or interrupt service to one or more customers or structures if such termination or interruption of service is likely in any manner to result in the endangerment of the public health, safety or welfare of the occupants of any building being supplied steam, heated or chilled water or other medium or if such termination or interruption is likely to result in any potential disruption or interruption of the provision of any governmental or nongovernmental services, provided the customer recipient of the service was receiving such service as of January 1, 2008, and has not previously been terminated, after being provided an opportunity to cure, for failure to pay any reasonable rates under any existing contract or as approved by the Department of Public Utility Control, and (2) in no event shall the corporation, parent, subsidiary or affiliate be entitled to terminate any customer who, while in good faith contesting any charges imposed under any existing contract, remits

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payment of those amounts not in dispute.

Sec. 3. (*Effective from passage*) (a) On and before May 7, 2008, and subject to the provisions of subsection (b) of this section, the Department of Public Utility Control shall regulate any thermal energy transportation company, as defined in section 16-1 of the 2008 supplement to the general statutes, as amended by this act, in the same manner as provided for public service companies under title 16 of the general statutes with regard to the setting of rates, charges and revenues; the obligation to provide service, maintenance of facilities and equipment; reliability of service; ownership of the company and any transfer of such ownership; and any provisions for the enforcement of such regulation as provided under title 16 of the general statutes.

(b) The Department of Public Utility Control shall not take any regulatory action under subsection (a) of this section without the approval of the joint standing committee of the General Assembly having cognizance of matters relating to energy. The department shall submit a notice summarizing any such proposed regulatory action with the Senate clerk. The Senate clerk shall stamp the date and time of receipt on such notice and immediately submit the notice to said committee. Not later than forty-eight hours after the date and time stamped on the notice, said committee shall notify, in writing, the chairperson of the Public Utilities Control Authority of the committee's approval or disapproval of the proposed regulatory action, provided if the committee does not act on the proposed regulatory action within such forty-eight hour period, the proposed regulatory action shall be deemed approved.

Approved April 30, 2008