



House of Representatives

General Assembly

File No. 317

February Session, 2008

House Bill No. 5783

House of Representatives, March 31, 2008

The Committee on Energy and Technology reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING ELECTRICITY MARKET INCENTIVE REBATES.

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

1 Section 1. (NEW) (*Effective from passage*) (a) On or before July 1, 2008,
2 and in subsequent calendar years as necessary pursuant to subsection
3 (d) of this section, the Department of Public Utility Control shall,
4 through a contested case proceeding, determine the cost of service,
5 including a reasonable rate of return on equity, of each power
6 generation plant in the state that uses uranium fuel or coal to produce
7 all or part of its electric output. The department shall conduct a
8 separate contested case proceeding for each such power generation
9 plant. Each such power generation plant shall be entitled to, but not
10 required to, participate in the investigative proceeding related to its
11 cost of service and in the absence of such participation, the department
12 shall develop the cost of service using reasonable estimates.

13 (b) Not later than ninety days after a decision by the department in
14 a contested case proceeding pursuant to subsection (a) of this section

15 regarding a power generation plant, the electric distribution company
16 for the territory in which the power generation plant is located shall
17 offer to enter into a contract with the power generation plant of a term
18 of between five and fifteen years. The compensation to the power
19 generation plant under such contract shall reflect the cost of service
20 determination, including a reasonable rate of return, made by the
21 department in the contested case proceeding for the first year of the
22 contract and adjusted each year in an annual retail generation rate
23 contested case to reflect the prudently incurred costs of such power
24 generation plant, including, but not limited to, capital costs, operation
25 and maintenance expenses, depreciation, fuel costs, taxes and other
26 governmental charges, emissions allowances and a reasonable rate of
27 return on equity. A power generation plant may also seek more
28 frequent review by the department if compensation under the contract
29 becomes so low that it jeopardizes continued operation of the plant. A
30 person operating a power generation plant under contract pursuant to
31 this section shall bid the unit into all applicable regional independent
32 system operator markets, including the energy market, capacity
33 market or forward reserve market, using cost-of-service principles and
34 pursuant to guidelines established by the department each year in the
35 annual retail generation rate case pursuant to this section.

36 (c) The costs and administrative costs of any contracts described in
37 this section shall be recovered from ratepayers through nonbypassable
38 federally mandated congestion charges or other nonbypassable
39 charges.

40 (d) If a power generation plant declines to enter into a contract with
41 an electric distribution company approved by the department
42 pursuant to subsection (b) of this section, such power generation plant
43 shall be subject to an annual market incentive recovery charge. Each
44 calendar year, the department shall determine the market incentive
45 recovery charge, which shall be the entire amount of the positive
46 difference between (1) what such plant has earned in the calendar year
47 from its power generation operations, including payments received
48 under the regional independent system operator markets and pursuant

49 to bilateral contracts, and (2) the plant's cost of service, including a
 50 reasonable rate of return on equity, as determined by the department
 51 each calendar year pursuant to subsection (a) of this section. The
 52 market incentive recovery charge shall be returned to customers
 53 through a credit to nonbypassable federally mandated congestion
 54 charges or another nonbypassable charge approved by the
 55 department. Such credit shall be in the form of a rebate on customers'
 56 monthly electric bills. The department shall determine the market
 57 incentive recovery charge for each power generation plant in a
 58 contested case in which the power generation plant owner is entitled
 59 to, but not required to, participate. If the power generation plant
 60 owner does not participate in its market incentive recovery charge
 61 proceeding or does not provide information to the department
 62 necessary for a determination of the charge, the department shall
 63 derive the market incentive recovery charge using reasonable
 64 estimates.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

ET *Joint Favorable*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Public Utility Control, Dept.	CC&PUCF - Cost	See Below	See Below

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact: None

Explanation

This bill requires the Department of Public Utility Control (DPUC) to determine how much it costs coal and nuclear powered generating plants in the state to generate power. It requires electric companies to offer to enter into long term contracts to buy power produced by these plants on a cost of service basis. If the plant does not enter the contract, the bill subjects the plant to an annual market incentive recovery charge.

Coal and nuclear generating plants are currently unregulated by DPUC. Therefore, DPUC most likely would be unable to compel the plants to provide commercially sensitive and proprietary information. DPUC may have to hire consultants to do a study to determine the costs to the plants. The cost of the consultants would depend on the number of consultants and length of time needed to complete the study.

The Out Years

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

OLR Bill Analysis**HB 5783*****AN ACT CONCERNING ELECTRICITY MARKET INCENTIVE REBATES.*****SUMMARY:**

This bill requires the Department of Public Utility Control (DPUC) to determine how much it costs coal- and nuclear-powered generating plants in the state to generate power. It requires the electric company serving each plant's location to offer to enter into long-term contracts to buy the power produced by these plants on a cost-of-service basis.

If the plant does not enter the contract, the bill subjects the plant to an annual "market incentive recovery charge" payable to customers. The bill does not specify whether the money goes to the plant's customers (utilities and other participants in the wholesale market) or the electric company's customers. It is not clear how these provisions comport with the Federal Power Act that govern wholesale transactions, such as between generators and electric companies (see BACKGROUND).

EFFECTIVE DATE: Upon passage

DPUC DETERMINATION OF POWER PLANT COST OF SERVICE

The bill requires DPUC to conduct a contested case proceeding to determine the cost of service, including a reasonable rate of return on equity, of each power plant in the state that uses uranium fuel or coal to produce all or part of its power. DPUC must conduct a separate proceeding for each plant. The plants can, but are not required to, participate in the proceeding. If they do not, DPUC must determine the cost of service using reasonable estimates.

In 2008, DPUC must conduct the proceedings by July 1. In subsequent years, it can conduct proceedings as needed to determine the market incentive recovery charge, if applicable.

ELECTRIC COMPANY OFFER

Within 90 days after DPUC's decision, the electric company serving the territory where the plant is located must offer to enter into a contract with it for a five- to 15-year term. The compensation to the plant under the contract must reflect DPUC's cost of service determination, including a reasonable rate of return, for the first year of the contract. The compensation must be adjusted each following year in an annual retail generation rate contested case to reflect the plant's prudently incurred costs, including, capital costs, operation and maintenance expenses, depreciation, fuel costs, taxes and other governmental charges, emissions allowances and a reasonable rate of return on equity. A plant may also seek more frequent review by DPUC if compensation under the contract becomes so low that it jeopardizes the plant's continued operation. A person operating a plant under this contract must bid the unit into all applicable regional wholesale markets, including the energy market, capacity market, or forward reserve market, using cost-of-service principles and under guidelines established by DPUC each year in the annual retail generation rate case.

The costs of the contract and administrative costs of any contracts entered into under these provisions must be recovered from ratepayers through non-bypassable federally mandated congestion charges or other non-bypassable charges. These charges apply to customers, whether they buy their power from the electric company or a competitive supplier.

MARKET INCENTIVE RECOVERY CHARGE

Under the bill, if a plant declines to enter into a contract with an electric company, it becomes subject to an annual market incentive recovery charge. Each calendar year, DPUC must determine the charge, which must be the difference between (1) what the plant

earned in the calendar year from its power generation operations, including payments received under markets administered by the entity than runs the regional wholesale market and under bilateral contracts and (2) the plant's cost of service, including a reasonable rate of return on equity, as determined by DPUC each calendar year as required by the bill. The charge must be returned to customers through a credit to non-bypassable federally mandated congestion charges or another non-bypassable charge approved by DPUC. The credit must be in the form of a rebate on customers' monthly electric bills. DPUC must determine the charge for each plant in a contested case in which the plant owner can, but is not required to, participate. If the plant owner does not participate in its proceeding or does not provide information to DPUC needed to determine the charge, DPUC must derive the charge using reasonable estimates.

BACKGROUND

Federal Power Act

The Federal Power Act (16 U.S.C. § 824 *et seq.*) generally gives the Federal Energy Regulatory Commission exclusive jurisdiction over interstate wholesale sales of electric power, among other things. Power plant owners in Connecticut routinely sell their power and generating capacity into the New England wholesale electric market and enter into bilateral contracts with market participants located in New England and other states.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 11 Nay 9 (03/11/2008)