



General Assembly

February Session, 2008

Raised Bill No. 5817

LCO No. 2786

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Referred to Committee on Energy and Technology

Introduced by:
(ET)

AN ACT CONCERNING RESOURCE RECOVERY FACILITIES.

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

1 Section 1. (NEW) (*Effective from passage*) (a) On or after December 31,
2 2008, no owner or operator of a resources recovery facility, as defined
3 in section 22a-207 of the general statutes, or a facility for disposal or
4 recycling of ash residue from a resources recovery facility, shall charge
5 a tipping fee or other fee for disposal of such municipal solid waste or
6 ash residue at such facility in excess of the rate approved by the
7 Department of Public Utility Control. The provisions of this subsection
8 shall not apply to any owner or operator of a resources recovery
9 facility or facility for the disposal or recycling of ash residue from a
10 resources recovery facility that is (1) a quasi-public authority, political
11 subdivision of the state, operating committee established pursuant to
12 subsection (c) of section 22a-221 of the general statutes or regional or
13 municipal authority, or (2) not an entity in subdivision (1) but that, on
14 the effective date of this section, has a written contract with an
15 operating committee for disposing municipal solid waste or ash
16 residue at such facility and the operating committee establishes the
17 tipping fee for disposal of solid waste or ash, provided this exception

18 shall only apply during the term of such contract or any extension of
19 such contract.

20 (b) Any rate approved by the Department of Public Utility Control
21 pursuant to this section shall be just and reasonable and consistent
22 with the following principles: (1) That the level and structure of rates
23 be sufficient, but no more than sufficient, to allow the owner or
24 operator to cover its operating and capital costs, to attract needed
25 capital and to maintain its financial integrity, and yet provide
26 appropriate protection to the relevant public interests, both existing
27 and foreseeable; and (2) that the level and structure of rates charged
28 customers shall reflect prudent and efficient management of the
29 facility operation.

30 (c) Notwithstanding the provisions of subsections (a) and (b) of this
31 section, the department may approve an interim increase in any rate if
32 the department determines that such increase is necessary to prevent
33 substantial and material deterioration of the financial condition of the
34 owner or operator, to prevent substantial deterioration of the adequacy
35 and reliability of the facility's operations.

36 Sec. 2. Section 16-1 of the 2008 supplement to the general statutes is
37 amended by adding subsection (c) as follows (*Effective from passage*):

38 (NEW) (c) Notwithstanding any provision of the general statutes to
39 the contrary, as used in the general statutes, the terms "utility", "public
40 utility" and "public service company" shall include an owner or
41 operator of a resources recovery facility, as defined in section 22a-207,
42 or a facility for disposal or recycling of ash residue from a resources
43 recovery facility unless such owner or operator is a quasi-public
44 authority or regional or municipal authority.

45 Sec. 3. (NEW) (*Effective from passage*) For the purposes of sections 3
46 to 8, inclusive, of this act, an "eligible facility" means any resource
47 recovery facility, as defined in section 22a-260 of the general statutes,
48 for which a facility's annual revenues from electricity sales will be

49 credited to reducing waste disposal fees paid by the participating
50 municipalities; and a "participating municipality" means a
51 municipality that has a contract obligating it to dispose of some or all
52 of the solid waste generated within the municipality at the eligible
53 facility.

54 Sec. 4. (NEW) (*Effective from passage*) The seller of electrical output
55 from an eligible facility shall be entitled to a long-term power purchase
56 agreement, as described in sections 3 to 8, inclusive, of this act,
57 pursuant to which the electrical output from such eligible facility shall
58 be purchased by an electric distribution company in whose service
59 territory the facility is located or by any other political subdivision of
60 the state serving as supplier to governmental facilities for a designated
61 block of low-income or senior citizen customers. Such agreement shall
62 have a term of not less than ten and not more than fifteen years and a
63 price that is negotiated at arm's length between the seller and buyer of
64 the electrical output, which terms and conditions shall be filed with the
65 Department of Public Utility Control.

66 Sec. 5. (NEW) (*Effective from passage*) An eligible purchaser of the
67 electrical output of an eligible facility including an electric distribution
68 company or political subdivision of the state, as set forth in section 3 of
69 this act, may negotiate in good faith with a seller of electrical output
70 from an eligible facility to arrive at a power purchase agreement that
71 meets the criteria of said section 3 where the parties shall submit the
72 power purchase agreement to the department as recoverable cost from
73 retail customers to whom the electrical output is sold.

74 Sec. 6. (NEW) (*Effective from passage*) The Department of Public
75 Utility Control shall approve a power purchase agreement between an
76 eligible facility and an electric distribution company if it concludes,
77 after conducting an uncontested case, that the power purchase
78 agreement is likely to deliver net benefits to electricity consumers over
79 the full term of the agreement. In making its determination, the
80 department shall individually and expressly take into account the

81 following factors and benefits: The value of the eligible facility's
82 capacity, energy and other ancillary electrical products compared to
83 the market value of comparable offerings, the benefits associated with
84 generation that consumes a renewable fuel, the benefits of fuel
85 diversity, the benefits of consuming a fuel that is indigenous to the
86 state and therefore less vulnerable to supply interruptions than
87 nonindigenous fuels, the presence of contract provisions that provide
88 an incentive for the resource recovery facility to operate efficiently, the
89 price stability conferred by securing long-term capacity and energy
90 pursuant to contract rather than allowing the eligible facility to
91 participate in wholesale markets, the use of tax-exempt financing or
92 prepayments as applicable, the benefits of supporting generation
93 facilities that are located close to load centers, the long-term public and
94 environmental benefits of these facilities including the reduction of the
95 amount of waste that is disposed of in landfills and securing a long-
96 term option for disposing of municipal solid waste relatively close to
97 its source.

98 Sec. 7. (NEW) (*Effective from passage*) The Department of Public
99 Utility Control shall either render a final decision concerning any
100 proposed power purchase agreement with regard to any electric
101 distribution company submitted pursuant to sections 3 to 8, inclusive,
102 of this act within one hundred fifty days of its submission or the
103 proposed agreement shall be deemed approved. The department's
104 decision shall either approve or disapprove the proposed agreement.
105 An electric distribution company shall execute a power purchase
106 agreement approved pursuant to said sections within thirty days of
107 approval.

108 Sec. 8. (NEW) (*Effective from passage*) (a) Nothing in sections 3 to 8,
109 inclusive, of this act shall be construed to deprive the Federal Energy
110 Regulatory Commission of any jurisdiction pursuant to applicable
111 provisions of federal law.

112 (b) In order to reduce the costs of electricity for specially designated

113 senior citizen and low-income residential customers or governmental
114 entities, establish a leadership role for the state with respect to
115 managing and controlling costs and expand the use of conservation
116 and load management and energy efficiency measures for the state and
117 the use of electricity consumed by specially designated senior citizen
118 and low-income residential customers or governmental entities,
119 specially designated residential customers or governmental entities
120 shall have the option to participate in an integrated energy purchasing
121 and efficiency pilot program. The integrated energy purchasing and
122 efficiency program manager shall be the Connecticut Municipal
123 Electric Energy Cooperative, or a wholly owned subsidiary shall be
124 eligible to serve as the integrated energy purchasing and efficiency
125 programs manager, with the oversight of the Department of Public
126 Utility Control, as provided in this section, which shall provide for the
127 consolidated purchasing of electricity, the coordinated deployment of
128 innovative conservation and load management and energy efficiencies
129 to achieve the lowest reasonable total costs of energy for specially
130 designated senior citizens and low-income residential customers or
131 governmental entities.

132 (c) For purposes of this section:

133 (1) "Integrated energy purchasing and efficiency pilot program"
134 means, for an initial period of five years, the provision of electric
135 generation services to only specially designated residential customers
136 or governmental entities in the state using the transmission or
137 distribution facilities of an electric distribution company, regardless of
138 whether or not such person takes title to such generation services, but
139 does not include: (A) A municipal electric utility established under
140 chapter 101 of the general statutes, other than a participating
141 municipal electric utility; (B) a municipal electric energy cooperative
142 established under chapter 101a of the general statutes providing
143 electric generation services to customers that are not specially
144 designated residential customers or governmental entities; (C) an
145 electric cooperative established under chapter 597 of the general

146 statutes; (D) any other electric utility owned, leased, maintained,
147 operated, managed or controlled by any unit of local government
148 under any general statute or special act; or (E) an electric distribution
149 company in its provision of electric generation services in accordance
150 with subsection (b) of this section or, prior to January 1, 2004,
151 subsection (c) of section 16-244c of the 2008 supplement to the general
152 statutes;

153 (2) "Specially designated senior citizens and low-income residential
154 customers" means any customer who is (A)(i) a senior citizen, sixty-
155 two years of age or older, or (ii) physically disabled or blind, as
156 defined in section 1-1f of the general statutes, and (B) a recipient of
157 benefits under the Connecticut Energy Assistance Program or the
158 Contingency Heating Assistance Program.

159 (d) To fulfill the purposes of this section, the department may
160 perform all acts necessary for the negotiation, execution and
161 administration of a contract with the Connecticut Municipal Electric
162 Energy Cooperative under the terms as set forth in subsection (e) of
163 this section and which are reasonably incidental to and further the
164 needs of the state and the purposes of this section. The department
165 shall cooperate with the integrated energy purchasing and efficiency
166 pilot program manager to determine the demand reduction and
167 enhanced reliability initiative opportunities to reduce federally
168 mandated congestion costs by maximizing the value of existing and
169 new load curtailment capability in combination or coordination with
170 existing or new distributed resources owned or operated by any state
171 agency, and to determine feasible options to establish the most
172 desirable mechanism to monitor electric load levels and hourly energy
173 market prices and initiate curtailment requests to achieve the
174 objectives contemplated pursuant to this section.

175 (e) The contract with the integrated energy purchasing and
176 efficiency pilot program manager entered into pursuant to subsection
177 (d) of this section shall allow for the consolidation of accounts for the

178 purchase of electric generation services, and the deployment of
179 innovative and advanced metering at governmental entities for the
180 optimal utilization of state facility electric services in combination or
181 coordination with existing or new distributed resources owned or
182 operated by any state agency.

183 (f) The costs associated with complying with the provisions of this
184 section shall be recoverable through federally mandated congestion
185 charges from electric distribution companies.

186 (g) The department shall authorize the total number and qualified
187 participants for the integrated energy purchasing and efficiency pilot
188 program and shall provide financial assurance for bad debt and
189 nonpayment of bills of the specially designated senior citizens and
190 low-income residential customers.

191 (h) A municipal electric energy cooperative, organized under
192 chapter 101a of the general statutes or a legal entity comprising a
193 project, as defined in subdivision (12) of section 7-233b of the general
194 statutes, owned or controlled by said municipal electric energy
195 cooperative is authorized to act as the integrated energy purchasing
196 and efficiency program manager, pursuant to the provisions of this
197 section, and perform the obligations authorized by this section and
198 shall provide said municipal electric energy cooperative the authority
199 to act consistent and not in conflict with the provisions of chapter 101a
200 of the general statutes.

201 (i) The integrated energy purchasing and efficiency program may
202 enter into long-term electric generation services contracts with an
203 eligible facility and utilize tax exempt financing supported by the state
204 in an amount not to exceed one hundred million dollars to finance the
205 prepayment of energy services or other properly authorized uses to
206 achieve the lowest reasonable total cost of energy for specially
207 designated senior citizens and low-income residential customers
208 participating in the integrated energy purchasing and efficiency
209 program.

210 (j) Any distributed generation resources to be added to the sites of
211 the resource recovery facilities entering into long-term power sales
212 contracts as set forth in section 1 of this act shall be eligible for the
213 \$450/kW of base load or combined heat and power facilities and
214 \$250/kW for peaking type of generation.

215 (k) The state shall identify distributed generation facilities in the
216 aggregate of twenty megawatts where an individual unit is less than
217 one megawatt where such distributed generation facilities are not
218 utilized in any ISO-NE programs, where such generation may be made
219 available to the Integrated Energy Purchasing and Efficiency Pilot
220 program manager to utilize in ISO-NE programs as determined
221 appropriate by the program manager with oversight at the
222 Department of Public Utility Control, provided such distributed
223 generation complies with all required environmental permitting and
224 ISO-NE metering and communication requirements. The state shall
225 authorize \$250/kW of distributed generation capacity to pay for the
226 cost of environmental compliance retrofit equipment or metering and
227 communication equipment required for participation in the designated
228 ISO-NE programs.

229 Sec. 9. Subdivision (30) of subsection (a) of section 16-1 of the 2008
230 supplement to the general statutes is repealed and the following is
231 substituted in lieu thereof (*Effective from passage*):

232 (30) "Electric supplier" means any person, including an electric
233 aggregator or participating municipal electric utility that is licensed by
234 the Department of Public Utility Control in accordance with section
235 16-245, that provides electric generation services to end use customers
236 in the state using the transmission or distribution facilities of an
237 electric distribution company, regardless of whether or not such
238 person takes title to such generation services, but does not include: (A)
239 A municipal electric utility established under chapter 101, other than a
240 participating municipal electric utility; (B) a municipal electric energy
241 cooperative established under chapter 101a providing electric

242 generation services to customers that are not specially designated
243 residential customers or governmental entities; (C) an electric
244 cooperative established under chapter 597; (D) any other electric utility
245 owned, leased, maintained, operated, managed or controlled by any
246 unit of local government under any general statute or special act; or (E)
247 an electric distribution company in its provision of electric generation
248 services in accordance with subsection (a) or, prior to January 1, 2004,
249 subsection (c) of section 16-244c of the 2008 supplement to the general
250 statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	16-1
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	16-1(a)(30)

Statement of Purpose:

To promote more affordable electricity.

[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.]