



General Assembly

Substitute Bill No. 5817

February Session, 2008

* HB05817ET 031108 *

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: (1) 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 (A) 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 (B) not an entity in subparagraph (A) but that,
14 on 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, any extension of
19 such contract or a new written contract that does not expressly require
20 a rate approved by the Department of Public Utility control, or (2) to
21 any tipping fee or other fee for disposal of municipal solid waste or ash

22 residue at such a facility set in accordance with the terms, and
23 applicable during the term or any extension, of a written contract with
24 a regional resources recovery authority for disposing municipal solid
25 waste or ash residue in existence on the effective date of this section or
26 any amendment thereof.

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

37 (c) Notwithstanding the provisions of subsections (a) and (b) of this
38 section, the department may approve an interim increase in any rate if
39 the department determines that such increase is necessary to prevent
40 substantial and material deterioration of the financial condition of the
41 owner or operator or to prevent substantial deterioration of the
42 adequacy and reliability of the facility's operations.

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

45 (NEW) (c) Notwithstanding any provision of the general statutes to
46 the contrary, as used in the general statutes, the terms "utility", "public
47 utility" and "public service company" shall include an owner or
48 operator of a resources recovery facility, as defined in section 22a-207,
49 or a facility for disposal or recycling of ash residue from a resources
50 recovery facility unless such owner or operator is a quasi-public
51 authority or regional or municipal authority.

52 Sec. 3. (NEW) (*Effective from passage*) For the purposes of sections 3
53 to 8, inclusive, of this act, an "eligible facility" means any resources

54 recovery facility, as defined in section 22a-260 of the general statutes,
55 for which a facility's annual revenues from electricity sales will be
56 credited to reducing waste disposal fees paid by the participating
57 municipalities; and a "participating municipality" means a
58 municipality of this state that has a contract obligating it to dispose of
59 some or all of the solid waste generated within the municipality at the
60 eligible facility.

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

72 Sec. 5. (NEW) (*Effective from passage*) An eligible purchaser of the
73 electrical output of an eligible facility, including a political subdivision
74 of the state, as set forth in section 3 of this act, may negotiate in good
75 faith with a seller of electrical output from an eligible facility to arrive
76 at a power purchase agreement that meets the criteria of said section 3
77 where the parties shall submit the power purchase agreement to the
78 department as recoverable cost from retail customers to whom the
79 electrical output is sold.

80 Sec. 6. (NEW) (*Effective from passage*) The Department of Public
81 Utility Control shall approve a power purchase agreement between an
82 eligible facility and a political subdivision of the state if the department
83 concludes, after conducting a contested case proceeding, that the
84 power purchase agreement is likely to deliver net benefits to electricity
85 consumers over the full term of the agreement. In making its
86 determination, the department shall take into account each of the

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

104 Sec. 7. (NEW) (*Effective from passage*) The Department of Public
105 Utility Control shall render a final decision concerning any proposed
106 power purchase agreement with regard to a political subdivision of the
107 state submitted pursuant to section 5 of this act within one hundred
108 fifty days after its submission or the proposed agreement shall be
109 deemed approved. The department's decision shall either approve or
110 disapprove the proposed agreement. A political subdivision of the
111 state shall execute an approved power purchase agreement within
112 thirty days after approval.

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

117 (b) In order to reduce the costs of electricity for specially designated
118 senior citizen and low-income residential customers or governmental
119 entities, establish a leadership role for the state with respect to

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

138 (c) For purposes of this section:

139 (1) "Integrated energy purchasing and efficiency pilot program"
140 means, for an initial period of five years, the provision of electric
141 generation services to only specially designated residential customers
142 or governmental entities in the state using the transmission or
143 distribution facilities of an electric distribution company, regardless of
144 whether or not such person takes title to such generation services, but
145 does not include: (A) A municipal electric utility, established under
146 chapter 101 of the general statutes, other than a participating
147 municipal electric utility; (B) a municipal electric energy cooperative,
148 established under chapter 101a of the general statutes, providing
149 electric generation services to customers that are not specially
150 designated residential customers or governmental entities; (C) an
151 electric cooperative established under chapter 597 of the general
152 statutes; (D) any other electric utility owned, leased, maintained,
153 operated, managed or controlled by any unit of local government

154 under any general statute or special act; or (E) an electric distribution
155 company in its provision of electric generation services in accordance
156 with subsection (b) of this section or, prior to January 1, 2004,
157 subsection (c) of section 16-244c of the 2008 supplement to the general
158 statutes; and

159 (2) "Specially designated senior citizens and low-income residential
160 customers" means customers who are (A) (i) senior citizens, sixty-two
161 years of age or older, or (ii) physically disabled or blind, as defined in
162 section 1-1f of the general statutes, and (B) recipients of benefits under
163 the Connecticut Energy Assistance Program or the Contingency
164 Heating Assistance Program.

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

182 (e) The contract with the integrated energy purchasing and
183 efficiency pilot program manager entered into pursuant to subsection
184 (d) of this section shall allow for the consolidation of accounts for the
185 purchase of electric generation services, and the deployment of
186 innovative and advanced metering at governmental entities for the

187 optimal utilization of state facility electric services in combination or
188 coordination with existing or new distributed resources owned or
189 operated by any state agency.

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

193 (g) The department shall authorize the total number of qualified
194 participants for the integrated energy purchasing and efficiency pilot
195 program and shall provide financial assurance for bad debt and
196 nonpayment of bills of the specially designated senior citizens and
197 low-income residential customers.

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

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

217 (j) The state shall identify distributed generation facilities in the
218 aggregate of twenty megawatts where an individual unit is less than

219 one megawatt where such distributed generation facilities are not
220 utilized in any ISO-NE programs, where such generation may be made
221 available to the integrated energy purchasing and efficiency pilot
222 program manager to utilize in ISO-NE programs, as determined
223 appropriate by the program manager with oversight at the
224 Department of Public Utility Control, provided such distributed
225 generation complies with all required environmental permitting and
226 ISO-NE metering and communication requirements.

227 (k) On January 1, 2010, and annually thereafter, the integrated
228 energy purchasing and efficiency pilot program manager shall report
229 to the joint standing committee of the General Assembly having
230 cognizance of matters relating to energy on the status of the program
231 and any recommendations.

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

235 (30) "Electric supplier" means any person, including an electric
236 aggregator or participating municipal electric utility that is licensed by
237 the Department of Public Utility Control in accordance with section
238 16-245, that provides electric generation services to end use customers
239 in the state using the transmission or distribution facilities of an
240 electric distribution company, regardless of whether or not such
241 person takes title to such generation services, but does not include: (A)
242 A municipal electric utility established under chapter 101, other than a
243 participating municipal electric utility; (B) a municipal electric energy
244 cooperative established under chapter 101a providing electric
245 generation services to customers that are not specially designated
246 residential customers or governmental entities; (C) an electric
247 cooperative established under chapter 597; (D) any other electric utility
248 owned, leased, maintained, operated, managed or controlled by any
249 unit of local government under any general statute or special act; or (E)
250 an electric distribution company in its provision of electric generation
251 services in accordance with subsection (a) or, prior to January 1, 2004,

252 subsection (c) of section 16-244c of the 2008 supplement to the general
253 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 Legislative Commissioners:

In section 6, "it" was changed to "the department" and "these facilities" was changed to "such generation facilities" for clarity. In section 7, the reference to "sections 3 to 8, inclusive" was changed to "section 5" for accuracy.

ET *Joint Favorable Subst.*