



House of Representatives

File No. 901

General Assembly

January Session, 2009

(Reprint of File No. 494)

Substitute House Bill No. 6631
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 4, 2009

AN ACT CONCERNING ELECTRIC UTILITIES.

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

1 Section 1. Subsection (b) of section 16a-3a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (b) On or before January 1, 2008, and [annually] biennially
5 thereafter, the companies shall submit to the Connecticut Energy
6 Advisory Board an assessment of (1) the energy and capacity
7 requirements of customers for the next three, five and ten years, (2) the
8 manner of how best to eliminate growth in electric demand, (3) how
9 best to level electric demand in the state by reducing peak demand and
10 shifting demand to off-peak periods, (4) the impact of current and
11 projected environmental standards, including, but not limited to, those
12 related to greenhouse gas emissions and the federal Clean Air Act
13 goals and how different resources could help achieve those standards
14 and goals, (5) energy security and economic risks associated with
15 potential energy resources, and (6) the estimated lifetime cost and

16 availability of potential energy resources.

17 Sec. 2. (NEW) (*Effective from passage*) Notwithstanding any limitation
18 imposed by its charter, each domestic electric company, as defined in
19 section 16-246a of the general statutes, is authorized and empowered
20 to generate and transmit electric energy and to acquire utility facilities
21 necessary or convenient for the purposes of its electric utility business
22 or undivided interests therein, and to operate the same, anywhere
23 within or without the state, provided nothing herein shall be construed
24 to authorize such a company to sell electric energy in this state to any
25 person or within any area, except as otherwise authorized by its
26 charter or the general statutes. An electric distribution company may
27 own or operate electric generation assets only as authorized by
28 sections 16-43d, 16-243m and 16a-3c of the general statutes.

29 Sec. 3. Subsection (b) of section 16-244c of the general statutes is
30 repealed and the following is substituted in lieu thereof (*Effective from*
31 *passage*):

32 (b) (1) (A) On and after January 1, 2004, each electric distribution
33 company shall make available to all customers in its service area, the
34 provision of electric generation and distribution services through a
35 transitional standard offer. Under the transitional standard offer, a
36 customer shall receive electric services at a rate established by the
37 Department of Public Utility Control pursuant to subdivision (2) of
38 this subsection. Each electric distribution company shall provide
39 electric generation services in accordance with such option to any
40 customer who affirmatively chooses to receive electric generation
41 services pursuant to the transitional standard offer or does not or is
42 unable to arrange for or maintain electric generation services with an
43 electric supplier. The transitional standard offer shall terminate on
44 December 31, 2006. While providing electric generation services under
45 the transitional standard offer, an electric distribution company may
46 provide electric generation services through any of its generation
47 entities or affiliates, provided such entities or affiliates are licensed
48 pursuant to section 16-245.

49 (B) The department shall conduct a proceeding to determine
50 whether a practical, effective, and cost-effective process exists under
51 which an electric customer, when initiating electric service, may
52 receive information regarding selecting electric generating services
53 from a qualified entity. The department shall complete such
54 proceeding on or before December 1, 2005, and shall implement the
55 resulting decision on or before March 1, 2006, or on such later date that
56 the department considers appropriate. An electric distribution
57 company's costs of participating in the proceeding and implementing
58 the results of the department's decision shall be recoverable by the
59 company as generation services costs through an adjustment
60 mechanism as approved by the department.

61 (2) (A) Not later than December 15, 2003, the Department of Public
62 Utility Control shall establish the transitional standard offer for each
63 electric distribution company, effective January 1, 2004.

64 (B) The department shall hold a hearing that shall be conducted as a
65 contested case in accordance with chapter 54 to establish the
66 transitional standard offer. The transitional standard offer shall
67 provide that the total rate charged under the transitional standard
68 offer, including electric transmission and distribution services, the
69 conservation and load management program charge described in
70 section 16-245m, the renewable energy investment charge described in
71 section 16-245n, electric generation services, the competitive transition
72 assessment and the systems benefits charge, and excluding federally
73 mandated congestion costs, shall not exceed the base rates, as defined
74 in section 16-244a, in effect on December 31, 1996, excluding any rate
75 reduction ordered by the department on September 26, 2002.

76 (C) (i) Each electric distribution company shall, on or before January
77 1, 2004, file with the department an application for an amendment of
78 rates pursuant to section 16-19, which application shall include a four-
79 year plan for the provision of electric transmission and distribution
80 services. The department shall conduct a contested case proceeding
81 pursuant to sections 16-19 and 16-19e to approve, reject or modify the

82 application and plan. Upon the approval of such plan, as filed or as
83 modified by the department, the department shall order that such plan
84 shall establish the electric transmission and distribution services
85 component of the transitional standard offer.

86 (ii) Notwithstanding the provisions of this subparagraph, an electric
87 distribution company that, on or after September 1, 2002, completed a
88 proceeding pursuant to sections 16-19 and 16-19e, shall not be required
89 to file an application for an amendment of rates as required by this
90 subparagraph. The department shall establish the electric transmission
91 and distribution services component of the transitional standard offer
92 for any such company equal to the electric transmission and
93 distribution services component of the standard offer established
94 pursuant to subsection (a) of this section in effect on July 1, 2003, for
95 such company. If such electric distribution company applies to the
96 department, pursuant to section 16-19, for an amendment of its rates
97 on or before December 31, 2006, the application of the electric
98 distribution company shall include a four-year plan.

99 (D) The transitional standard offer (i) shall be adjusted to the extent
100 of any increase or decrease in state taxes attributable to sections 12-264
101 and 12-265 and any other increase or decrease in state or federal taxes
102 resulting from a change in state or federal law, (ii) shall be adjusted to
103 provide for the cost of contracts under subdivision (2) of subsection (j)
104 of this section and the administrative costs for the procurement of such
105 contracts, and (iii) shall continue to be adjusted during such period
106 pursuant to section 16-19b. Savings attributable to a reduction in taxes
107 shall not be shifted between customer classes. Notwithstanding the
108 provisions of section 16-19b, the provisions of section 16-19b shall
109 apply to electric distribution companies.

110 (E) The transitional standard offer may be adjusted, by an increase
111 or decrease, to the extent approved by the department, in the event
112 that (i) the revenue requirements of the company are affected as the
113 result of changes in (I) legislative enactments other than public act 03-
114 135* or public act 98-28*, (II) administrative requirements, or (III)

115 accounting standards adopted after July 1, 2003, provided such
116 accounting standards are adopted by entities that are independent of
117 the company and have authority to issue such standards, or (ii) an
118 electric distribution company incurs extraordinary and unanticipated
119 expenses required for the provision of safe and reliable electric service
120 to the extent necessary to provide such service.

121 (3) The price provided in subdivision (2) of this subsection shall not
122 apply to customers who, on or after July 1, 2003, purchase electric
123 services from an electric company or electric distribution company, as
124 the case may be, under a special contract or flexible rate tariff,
125 provided the company's filed transitional standard offer tariffs shall
126 reflect that such customers shall not receive the transitional standard
127 offer price during the term of said contract or tariff.

128 (4) (A) In addition to its costs received pursuant to subsection (h) of
129 this section, as compensation for providing transitional standard offer
130 service, each electric distribution company shall receive an amount
131 equal to five-tenths of one mill per kilowatt hour. Revenues from such
132 compensation shall not be included in calculating the electric
133 distribution company's earnings for purposes of, or in determining
134 whether its rates are just and reasonable under, sections 16-19, 16-19a
135 and 16-19e, including an earnings sharing mechanism. In addition,
136 each electric distribution company may earn compensation for
137 mitigating the prices of the contracts for the provision of electric
138 generation services, as provided in subdivision (2) of this subsection.

139 (B) The department shall conduct a contested case proceeding
140 pursuant to the provisions of chapter 54 to establish an incentive plan
141 for the procurement of long-term contracts for transitional standard
142 offer service by an electric distribution company. The incentive plan
143 shall be based upon a comparison of the actual average firm full
144 requirements service contract price for electricity obtained by the
145 electric distribution company compared to the regional average firm
146 full requirements service contract price for electricity, adjusted for such
147 variables as the department deems appropriate, including, but not

148 limited to, differences in locational marginal pricing. If the actual
149 average firm full requirements service contract price obtained by the
150 electric distribution company is less than the actual regional average
151 firm full requirements service contract price for the previous year, the
152 department shall split five-tenths of one mill per kilowatt hour equally
153 between ratepayers and the company. Revenues from such incentive
154 plan shall not be included in calculating the electric distribution
155 company's earnings for purposes of, or in determining whether its
156 rates are just and reasonable under sections 16-19, 16-19a and 16-19e.
157 The department may, as it deems necessary, retain a third party entity
158 with expertise in energy procurement to assist with the development
159 of such incentive plan.

160 (C) Notwithstanding subparagraphs (A) and (B) of this subdivision,
161 the department shall not accept applications, grant incentives or collect
162 any ratepayer money for compensation for providing transitional
163 standard offer service for rate years 2005 and 2006. The department
164 shall conduct a contested case to determine how each electric
165 distribution company shall release to ratepayers any money such
166 companies are holding in escrow pursuant to this subsection.

167 Sec. 4. Section 16-244k of the general statutes is repealed and the
168 following is substituted in lieu thereof (*Effective from passage*):

169 The Department of Public Utility Control shall allocate the proceeds
170 of the retail adder established by the department in its decision in
171 docket number 99-03-36, dated October 1, 1999, or any similar
172 subsequent retail adder established by the department pursuant to
173 subsection (b) of section 16-244c, as amended by this act. [, for the
174 mitigation of the costs associated with the compensation provided in
175 subdivision (4) of subsection (b) of section 16-244c.] The department
176 may use any remaining proceeds of a retail adder for the mitigation of
177 the costs associated with the difference between the total rate charged
178 under the standard offer pursuant to subsection (a) of section 16-244c
179 and the total rate charged under the transitional standard offer
180 pursuant to subsection (b) of section 16-244c, as amended by this act,

181 and then for the accelerated payment of stranded costs established
182 pursuant to section 16-245e.

183 Sec. 5. Subsection (a) of section 16-243n of the general statutes is
184 repealed and the following is substituted in lieu thereof (*Effective from*
185 *passage*):

186 (a) Not later than October 1, 2005, each electric distribution
187 company, as defined in section 16-1, shall submit an application to the
188 Department of Public Utility Control to (1) on or before January 1,
189 2007, implement time-of-use rates for customers that have a maximum
190 demand of not less than three hundred fifty kilowatts that may
191 include, but not be limited to, mandatory peak, shoulder and off-peak
192 time-of-use rates, and (2) on or [before June 1, 2006] after the effective
193 date of this section, offer optional interruptible [or] and load response
194 rates for customers that have a maximum demand of not less than
195 three hundred fifty kilowatts and offer optional seasonal and time-of-
196 use rates for all customers. The application shall propose to establish
197 time-of-use rates through a procurement plan, revenue neutral
198 adjustments to delivery rates, or both.

199 Sec. 6. (NEW) (*Effective from passage*) Notwithstanding sections 16-
200 19ss and 16-244e of the general statutes, as amended by this act, an
201 electric distribution company, upon application to and approval by the
202 Department of Public Utility Control, may own and operate solar and
203 wind renewable resources and fuel cells that produce electric energy.
204 An electric distribution company shall obtain preapproval to own and
205 operate such solar and wind renewable resources or fuel cells from the
206 department and shall recover any associated costs in its federally
207 mandated congestion charge, as defined in section 16-1 of the general
208 statutes. For all applications, electric distribution companies shall
209 recover costs based on cost-of-service principles pursuant to section
210 16-19e of the general statutes as approved by the department after a
211 hearing held in a proceeding or proceedings separate from other
212 distribution rate proceedings. Electric distribution companies shall be
213 eligible for any state or federal renewable incentives, grants or credits,

214 including, but not limited to, those available under programs
215 administered by the Renewable Energy Investments Board, for owning
216 or operating such solar and wind renewable resources or fuel cells.

217 Sec. 7. Subdivision (6) of subsection (a) of section 16-244e of the
218 general statutes is repealed and the following is substituted in lieu
219 thereof (*Effective from passage*):

220 (6) Once unbundling is completed to the satisfaction of the
221 department and consistent with the provisions of section 16-244, (A)
222 any corporate affiliate or separate division that provides electric
223 generation services as a result of unbundling pursuant to this
224 subsection shall be considered a generation entity or affiliate of the
225 electric company, and the division or corporate affiliate of the electric
226 company that provides transmission and distribution services shall be
227 considered an electric distribution company, and (B) an electric
228 distribution company shall not own or operate generation assets,
229 except as provided in this section, section 6 of this act and sections 16-
230 43d, 16-243m, 16-243u, 16a-3b and 16a-3c.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16a-3a(b)
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	16-244c(b)
Sec. 4	<i>from passage</i>	16-244k
Sec. 5	<i>from passage</i>	16-243n(a)
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	16-244e(a)(6)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill makes various changes to guidelines regarding electric utilities. There is no anticipated fiscal impact associated with this bill.

House "A" makes clarifying changes that will result in no fiscal impact.

House "B" allows electric distribution companies, upon application and approval by the Department of Public Utility Control, to own and operate solar and wind renewable resources and fuel cells that produce electric energy. There is no anticipated fiscal impact associated with the amendment.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6631 (as amended by House "A" and "B")******AN ACT CONCERNING ELECTRIC UTILITIES AND UTILITY TERMINATIONS.*****SUMMARY:**

This bill allows electric companies, with the approval of the Department of Public (DPUC), to own and operate solar and wind renewable resources and fuel cells.

The bill makes electric companies ineligible, with regard to the 2005 and 2006 rate years, for a bonus they were allowed to apply for in connection with procuring power for the service they provided to customers who did not choose a competitive supplier.

The bill also requires electric companies to file energy assessments with the Connecticut Energy Advisory Board by January 1 every even-numbered year, rather than every year.

The bill specifies that domestic (Connecticut) electric companies have authority, notwithstanding any provisions in their charters, to generate and transmit electricity and acquire and operate utility facilities for its business purposes. The bill does not affect the company's franchise area or the statutory restrictions that apply to an electric company owning or operating generation facilities.

The bill requires electric companies, starting on the bill's passage date, to offer optional interruptible and load response rates to customers that have a maximum demand of 350 kilowatts. (The former provides an incentive for customers to conserve power during peak demand periods; the latter offers an incentive to shift demand to off-peak periods.) Current law requires the companies to offer one of these

rates.

*House Amendment "A" eliminates provisions that (1) require residential building owners to give utilities and heating fuel dealers access to meters and other facilities on their premises and subject them to sanctions if they do not and (2) establish verification requirements for the termination of residential utility service. The amendment also reinstates current law with regard to the procurement bonus for the 2004 rate year.

*House Amendment "B" adds the provisions on electric company ownership of renewable generation.

EFFECTIVE DATE: Upon passage

ELECTRIC COMPANY OWNERSHIP OF RENEWABLE GENERATING RESOURCES

Current law generally bars electric companies from owning power plants and other generation resources. The bill allows electric companies, following application to and approval by DPUC, to own and operate solar and wind renewable resources and fuel cells that produce power. An electric company must recover any costs associated with this generation in the charge on electric bills that covers costs associated with congestion on the transmission system. The companies must recover costs based on existing statutory rate-making principles, as approved by DPUC after a hearing held in one or more proceedings that are separate from distribution rate cases. The bill makes the companies eligible for any state or federal renewable incentives, grants, or credits for owning or operating these facilities. These incentives include, among other things, those available under Clean Energy Fund programs.

PROCUREMENT BONUS

The law required electric companies, from 2004 through 2006, to provide transitional standard offer to customers who had not chosen a competitive supplier. The law required DPUC to conduct a contested case to determine whether the companies had procured power for this

service at below market prices and, if they did, provide them with a bonus set at \$0.0005 per kilowatt-hour multiplied by the amount of power they sold. DPUC authorized the companies to collect money from ratepayers to fund this bonus and place the funds in escrow pending its analysis of whether the companies were eligible for the bonus. DPUC subsequently determined that the companies were not eligible, although this determination has been appealed with regard to the 2004 rate year.

The bill bars DPUC from accepting applications under this provision, granting bonuses, or collecting any ratepayer money to pay for the bonuses to the companies for providing transitional standard offer service for the 2005 and 2006 rate years. It requires DPUC to conduct a contested case to determine how each electric company must release to ratepayers any money such companies are holding in escrow under current law.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 21 Nay 0 (03/19/2009)