



# House of Representatives

General Assembly

**File No. 520**

January Session, 2009

Substitute House Bill No. 6636

*House of Representatives, April 6, 2009*

The Committee on Energy and Technology reported through REP. NARDELLO of the 89th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE CONNECTICUT CLEAN ENERGY FUND.***

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

1 Section 1. Subdivision (2) of subsection (j) of section 16-244c of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (2) Notwithstanding the provisions of subsection (d) of this section  
5 regarding an alternative transitional standard offer option or an  
6 alternative standard service option, an electric distribution company  
7 providing transitional standard offer service, standard service,  
8 supplier of last resort service or back-up electric generation service in  
9 accordance with this section shall, not later than July 1, [2008] 2011, file  
10 with the Department of Public Utility Control for its approval one or  
11 more long-term power purchase contracts from Class I renewable  
12 energy source projects that receive funding from the Renewable  
13 Energy Investment Fund and that are not less than one megawatt in  
14 size. [ , at a price that is either, at the determination of the project

15 owner, (A) not more than the total of the comparable wholesale market  
16 price for generation plus five and one-half cents per kilowatt hour, or  
17 (B) fifty per cent of the wholesale market electricity cost at the point at  
18 which transmission lines intersect with each other or interface with the  
19 distribution system, plus the project cost of fuel indexed to natural gas  
20 futures contracts on the New York Mercantile Exchange at the natural  
21 gas pipeline interchange located in Vermillion Parish, Louisiana that  
22 serves as the delivery point for such futures contracts, plus the fuel  
23 delivery charge for transporting fuel to the project, plus five and one-  
24 half cents per kilowatt hour.] Contracts entered into on or after August  
25 1, 2009, shall include a requirement that the owner of the Class I  
26 renewable energy source project be compensated at a cost-based rate,  
27 in cents per kilowatt-hour, that provides the opportunity for the  
28 project to earn a reasonable rate of return if the project operates at a  
29 sufficient capacity factor. The department shall determine the rates, the  
30 capacity factor and other factors prior to the commencement of any  
31 contract and the department may adjust such rates, capacity factor and  
32 other factors not more than once every five years. The department may  
33 establish a five-year review proceeding at its discretion or at the  
34 request of the owner of the Class I renewable energy source project. In  
35 its approval of such contracts, the department shall give preference to  
36 purchase contracts from those projects that would provide a financial  
37 benefit to ratepayers or would enhance the reliability of the electric  
38 transmission system of the state and the department may approve or  
39 disapprove any proposed contract as public interest requires. Such  
40 projects shall be located in this state. [The owner of a fuel cell project  
41 principally manufactured in this state shall be allocated all available air  
42 emissions credits and tax credits attributable to the project and no less  
43 than fifty per cent of the energy credits in the Class I renewable energy  
44 credits program established in section 16-245a attributable to the  
45 project.] On and after October 1, 2007, [and until September 30, 2008,]  
46 such contracts shall be comprised of not less than a total, apportioned  
47 among each electric distribution company, of one hundred twenty-five  
48 megawatts; and on and after [October 1, 2008] July 1, 2011, such  
49 contracts shall be comprised of not less than a total, apportioned

50 among each electrical distribution company, of one hundred fifty  
51 megawatts. The cost of such contracts and the administrative costs for  
52 the procurement of such contracts directly incurred shall be [eligible  
53 for inclusion in the adjustment to the transitional standard offer as  
54 provided in this section and any subsequent rates for standard service,  
55 provided such contracts are] at the department's discretion from time  
56 to time, either included in nonbypassable federally mandated  
57 congestion charges or in the rates for standard service and any  
58 benefits, including, but not limited to, the value of renewable energy  
59 credits received through a contract, shall be distributed in the same  
60 manner as the costs. A project owner who has signed a contract on or  
61 before April 1, 2009, and whose contractual compensation is not  
62 indexed to the cost of natural gas fuel may make a single request to the  
63 department to adjust its contract due to issues of financeability,  
64 provided such a request is made before September 1, 2009, and may  
65 include a request that the existing contract be extended to cover the  
66 full output of the project. The department, upon receipt of such a  
67 request, may open a proceeding to consider whether to adopt any  
68 adjustments to such a contract, including, but not limited to,  
69 converting it to a cost-based contract that may include a fuel cost  
70 adjustment clause, as the department determines is in the public  
71 interest. A proceeding opened by the department pursuant to this  
72 subdivision shall be conducted as an uncontested proceeding, but the  
73 project developer shall present evidence and testimony of a financial  
74 expert to the department, at the project developer's expense, as to the  
75 necessity of adjusting the contract. The contracts shall be for a period  
76 of time sufficient to provide financing for such projects, but not less  
77 than ten years, and are for projects which began operation on or after  
78 July 1, 2003. [Except as provided in this subdivision, the amount from  
79 Class I renewable energy sources contracted under such contracts shall  
80 be applied to reduce the applicable Class I renewable energy source  
81 portfolio standards. For purposes of this subdivision, the department's  
82 determination of the comparable wholesale market price for  
83 generation shall be based upon a reasonable estimate.] On or before  
84 September 1, 2007, the department, in consultation with the Office of

85 Consumer Counsel and the Renewable Energy Investments Advisory  
86 Council, shall study the operation of such renewable energy contracts  
87 and report its findings and recommendations to the joint standing  
88 committee of the General Assembly having cognizance of matters  
89 relating to energy.

90 Sec. 2. Subsection (e) of section 16-245n of the general statutes is  
91 repealed and the following is substituted in lieu thereof (*Effective from*  
92 *passage*):

93 (e) The Renewable Energy Investments Board shall include not  
94 more than fifteen individuals with knowledge and experience in  
95 matters related to the purpose and activities of the Renewable Energy  
96 Investment Fund. The board shall consist of the following members:  
97 (1) One person with expertise regarding renewable energy resources  
98 appointed by the speaker of the House of Representatives; (2) one  
99 person representing a state or regional organization primarily  
100 concerned with environmental protection appointed by the president  
101 pro tempore of the Senate; (3) one person with experience in business  
102 or commercial investments appointed by the majority leader of the  
103 House of Representatives; (4) one person representing a state or  
104 regional organization primarily concerned with environmental  
105 protection appointed by the majority leader of the Senate; (5) one  
106 person with experience in business or commercial investments  
107 appointed by the minority leader of the House of Representatives; (6)  
108 the Commissioner of Emergency Management and Homeland Security  
109 or the commissioner's designee; (7) one person with expertise  
110 regarding renewable energy resources appointed by the Governor; (8)  
111 two persons with experience in business or commercial investments  
112 appointed by the board of directors of Connecticut Innovations,  
113 Incorporated; (9) a representative of a state-wide business association,  
114 manufacturing association or chamber of commerce appointed by the  
115 minority leader of the Senate; (10) the Consumer Counsel or the  
116 Consumer Counsel's designee; (11) the Secretary of the Office of Policy  
117 and Management or the secretary's designee; (12) the Commissioner of  
118 Environmental Protection or the commissioner's designee; (13) a

119 representative of organized labor appointed by the Governor; and (14)  
 120 a representative of residential customers or low-income customers  
 121 appointed by Governor. On a biennial basis, the board shall elect a  
 122 chairperson and vice-chairperson from among its members and shall  
 123 adopt such bylaws and procedures it deems necessary to carry out its  
 124 functions. The board may establish committees and subcommittees as  
 125 necessary to conduct its business.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-244c(j)(2)
Sec. 2	<i>from passage</i>	16-245n(e)

**Statement of Legislative Commissioners:**

In section 1, "Class I renewable energy project" was changed to " Class I renewable energy source project" and "accept or reject" was changed to "approve or disapprove", for statutory consistency.

**ET**            *Joint Favorable Subst.-LCO*

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 House thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

This bill makes modifications to Project 150 and to the Renewable Energy Investment Board. There is no anticipated fiscal impact associated with this bill.

***The Out Years***

None

**OLR Bill Analysis**

**HB 6636**

***AN ACT CONCERNING THE CONNECTICUT CLEAN ENERGY FUND.***

**SUMMARY:**

By law, electric companies must file with the Department of Public Utility Control (DPUC), for its approval, long-term power purchase contracts with certain renewable energy producers. The bill delays when an additional 25 megawatts (MW) of capacity must be contracted for under these provisions from October 1, 2008 to July 1, 2011. A megawatt is the amount of power used by 750 to 1,000 homes. The bill modifies how new contracts will be priced and allows existing contracts to be repriced under certain circumstances. The bill also modifies how the costs of the contracts are recovered in electric rates.

Under current law, the consumer counsel is a member of the Renewable Energy Investment Board, which develops the plan for spending money in the Clean Energy Fund. The bill allows the consumer counsel's designee in lieu of the counsel, to serve on the board.

EFFECTIVE DATE: Upon passage

**LONG-TERM POWER PURCHASE CONTRACTS**

Under current law, the electric companies were required to file with DPUC one or more long-term power purchase contracts from Class I renewable energy source (e.g., wind power or fuel cell) projects that (1) receive funding from the Clean Energy Fund, (2) are located in Connecticut, and (3) are at least one MW in size. They were required to enter into contracts for 125 MW of generating capacity prior to October 1, 2008, when the requirement went up to 150 MW although the additional contracts have not been entered into to date. The bill delays

this step until July 1, 2011. It allows DPUC to approve or disapprove any proposed contract as public interest requires.

### ***Pricing***

Under current law, the generation project owner has two pricing options under the contracts (1) the wholesale electricity price plus 5.5 cents per kilowatt-hour or (2) the sum of the following (a) half of the wholesale electricity price; (b) the projected cost of natural gas used to fuel the project, based on the futures price of contracts measured at the Henry Hub, Louisiana; (c) the charge for delivering the fuel to the project; and (d) 5.5 cents per kilowatt-hour.

The bill instead requires that contracts entered into on or after August 1, 2009 include a requirement that the project owner be compensated at a cost-based rate, in cents per kilowatt-hour, that gives the project an opportunity to earn a reasonable rate of return if it operates at a sufficient capacity factor. DPUC must determine the rates, the capacity factor, and other factors before any contract starts and may adjust them not more than once every five years. DPUC may establish a five-year review proceeding at its discretion or if the project owner asks.

The bill allows a project owner who has signed a contract on or before April 1, 2009, and whose compensation is not indexed to the cost of natural gas, to make a single request to DPUC to adjust its contract due to financial issues, if the request is made before September 1, 2009. The request may ask that the existing contract be extended to cover the project's full output. DPUC, upon receiving the request, may open a proceeding to consider whether to adjust a contract, including, converting it to a cost-based contract that may include a fuel cost adjustment clause, as it determines is in the public interest. If there is a case, it must be conducted as an uncontested proceeding. But the project developer must present evidence and testimony of a financial expert to DPUC, at the developer's expense, as to the need to adjust the contract.

The bill repeals a provision that generally counts the power purchased under these contracts towards meeting the electric company's obligation under the renewable portfolio standard, which requires it to get part of its power from renewable resources. It also eliminates the right of an owner of a fuel cell project principally manufactured in Connecticut to all available air emissions credits and tax credits attributable to the project and at least 50% of the class I renewable energy credits (RECs) attributable to the project. (RECs are bought and sold on the wholesale electric market to meet renewable portfolio standards in Connecticut and other states.) The bill is silent on whether these provisions apply to existing contracts that are not renegotiated.

**Cost Recovery**

Under current law, the electric company can recover the cost of the contracts and the direct administrative costs for procuring them in its rates for standard service (the service it provides to small and medium-size customers who have not chosen a competitive supplier). The bill alternatively allows DPUC to include these costs in nonbypassable federally mandated congestion charges (FMCC). These charges apply to all customers, including those served by competitive suppliers. The bill allows DPUC to recover the costs of the contracts in the nonbypassable FMCCs charged to large customers.

Under current law, in order for the contract costs to be recovered in rates, the contracts must run long enough to provide financing for the selected projects, but at least 10 years, and the projects must have began operation on or after July 1, 2003. The bill requires that these two conditions be met in all cases.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/19/2009)