



General Assembly

January Session, 2013

Raised Bill No. 6532

LCO No. 3849



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:
(ET)

AN ACT CONCERNING CERTIFICATION OF CLASS I AND CLASS II RENEWABLE ENERGY SOURCES AND CLASS III SOURCES, RENEWABLE ENERGY CREDITS AND ALTERNATIVE COMPLIANCE PAYMENTS.

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

1 Section 1. (NEW) (*Effective October 1, 2013*) (a) The owner of a facility
2 or conservation and load management program may file with the
3 Public Utilities Regulatory Authority an application for a certificate of
4 eligibility to certify that such facility or program qualifies as a Class I
5 or Class II renewable energy source, as defined in section 16-1 of the
6 general statutes, or a Class III source, as defined in section 16-1 of the
7 general statutes. The authority shall not accept such application unless
8 such facility or program is operational. An application shall (1) be
9 made on forms prescribed by the authority, (2) contain such
10 information, exhibits and supporting data as the authority may
11 prescribe, and (3) be accompanied by a nonrefundable application fee
12 of five hundred dollars.

13 (b) If the authority finds that a facility or conservation and load

14 management program described in such application meets the
15 definition of a Class I or Class II renewable energy source or a Class III
16 source, the authority may issue a certificate of eligibility. Such
17 certificate shall identify (1) the class for which such facility or program
18 is eligible, (2) the date on which such facility or program may begin to
19 receive renewable energy certificates, (3) the location of such facility or
20 program, and (4) the source of energy used by such facility. A
21 certificate of eligibility issued by the authority for a Class I or Class II
22 renewable energy source shall remain in effect as long as the respective
23 statutory requirements for such source and all conditions specified in
24 the application for certification are met. A certificate of eligibility
25 issued by the authority for a Class III source shall remain in effect for
26 the duration of the conservation and load management program as
27 approved by the authority, so long as the statutory requirements for
28 such source, the conditions specified in the application for certification
29 and any other conditions imposed by the authority on such program
30 are met.

31 (c) A certificate of eligibility issued pursuant to this section shall not
32 be transferable or assignable.

33 (d) To retain a certificate of eligibility, the owner of a facility or
34 conservation and load management program shall provide satisfactory
35 evidence to the authority that (1) such facility or program remains a
36 Class I or Class II renewable energy source or a Class III source in
37 accordance with section 16-243t of the general statutes, as amended by
38 this act, (2) such owner maintains accurate records, including, but not
39 limited to, generation of such facility, allocation and transaction of
40 renewable energy credits, third-party verification of audits and any
41 applicable Federal Energy Regulatory Commission documentation,
42 and (3) such owner informs the authority of any change to any
43 information provided in the application filed pursuant to subsection
44 (a) of this section within ten days of such change.

45 (e) The authority may (1) at any time and without prior notice,

46 perform a physical inspection or audit the books and records of a
47 facility or conservation and load management program issued a
48 certificate of eligibility pursuant to this section, (2) conduct
49 investigations and hold hearings on any matter subject to the
50 provisions of this section, and (3) issue subpoenas, administer oaths,
51 compel testimony and order the production of books, records and
52 documents in connection with such investigations. If any person
53 refuses to appear, to testify or to produce any book, record or
54 document when so ordered, upon application of the authority or the
55 Attorney General, a judge of the Superior Court may make such order
56 as may be appropriate to aid in the enforcement of this section. The
57 Attorney General, at the request of the authority, may apply in the
58 name of the state of Connecticut to the Superior Court for an order
59 temporarily or permanently restraining and enjoining any person from
60 violating any provision of this section.

61 (f) A certificate of eligibility issued pursuant to this section may be
62 suspended or revoked by the authority, if the authority finds that the
63 owner of a facility or conservation and load management program fails
64 to provide satisfactory evidence to the authority that (1) such facility or
65 program meets the definition of a Class I or Class II renewable energy
66 source or a Class III source, (2) such owner complies with any term or
67 condition imposed by the authority on any applicable conservation
68 and load management program, (3) such owner satisfies any condition
69 or requirement contained in the application submitted pursuant to
70 subsection (a) of this section or complies with any regulations adopted
71 pursuant to this section, (4) such owner provides true and accurate
72 information or evidence in such application, (5) such owner notifies
73 the authority within ten days of any change to any information
74 provided in such application, or (6) such owner provides complete
75 access to the authority, or the authority's designee, for an inspection of
76 the facility or an audit of books and records of the facility or program.
77 The authority may prohibit a facility or conservation and load
78 management program or the owner of any such facility or program

79 from reapplying for a certificate of eligibility if the authority finds that
80 such facility or program or the owner of any such facility or program
81 knowingly engaged in fraud or material deception or knowingly made
82 false, misleading or deceptive representations in order to obtain a
83 certificate of eligibility or to earn and transact renewable energy
84 credits.

85 (g) The authority may adopt regulations, in accordance with chapter
86 54 of the general statutes, necessary to carry out the purposes of this
87 section and section 2 of this act.

88 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) The owner of a facility or
89 conservation and load management program who does not hold a
90 valid certificate of eligibility issued pursuant to section 1 of this act
91 shall be prohibited from earning or selling renewable energy credits to
92 any entity for compliance with the renewable portfolio standards
93 established in sections 16-243q and 16-245a of the general statutes, as
94 amended by this act.

95 (b) No person shall (1) submit or attempt to submit an application
96 for a certificate of eligibility for a facility or conservation and load
97 management program that such person does not own, (2) knowingly
98 give false evidence to the Public Utilities Regulatory Authority for the
99 purpose of procuring a certificate of eligibility, (3) knowingly use or
100 attempt to use a certificate of eligibility which has been suspended or
101 revoked, (4) knowingly obtain or attempt to obtain or otherwise
102 transact renewable energy credits for the periods in which such facility
103 or program fails to meet the definition of a Class I or Class II
104 renewable energy source, as defined in section 16-1 of the general
105 statutes, or a Class III source, as defined in section 16-1 of the general
106 statutes, or the conditions of an applicable conservation and load
107 management program, or (5) falsely pretend in any manner that the
108 facility qualifies as a Class I or Class II renewable energy source or
109 Class III source.

110 (c) Any facility or conservation and load management program and
111 the owner of any such facility or program that (1) obtains or sells any
112 renewable energy credits for the period of time in which the facility or
113 program fails to meet the requirements of a Class I or Class II
114 renewable energy source or a Class III source or comply with any
115 conditions of any applicable conservation and load management
116 program, (2) provides false and inaccurate information to the authority
117 for the purpose of procuring a certificate of eligibility, or (3) violates
118 any condition contained in the application for eligibility or any
119 regulations adopted pursuant to section 1 of this act, shall be subject to
120 civil penalties by the authority in accordance with section 16-41 of the
121 general statutes.

122 (d) In addition to any civil penalty imposed by the authority
123 pursuant to subsection (c) of this section, the authority shall require
124 any facility or conservation and load management program or the
125 owner of such facility or program that earned and transacted
126 renewable energy credits while such facility or program did not meet
127 the respective requirements of such Class I or Class II renewable
128 energy source or such Class III source approved by the authority, to
129 pay a penalty in an amount equal to the total of alternative payments
130 required of any electric supplier or electric distribution company that
131 bought the noneligible facility renewable energy credits pursuant to
132 subsections (b) and (d) of section 16-243q of the general statutes, as
133 amended by this act, and subsection (k) of section 16-245 of the general
134 statutes, as amended by this act. Any such penalty collected pursuant
135 to this subsection shall be used to reimburse any electric supplier or
136 electric distribution company that purchased and used the renewable
137 energy credits sold by the noneligible facility to comply with the
138 renewable energy portfolio standards established in sections 16-243q
139 and 16-245a of the general statutes, as amended by this act.

140 (e) A violation of any of the provisions of this section or section 1 of
141 this act shall be deemed an unfair or deceptive trade practice pursuant
142 to section 42-110b of the general statutes.

143 (f) Nothing in this section or section 1 of this act shall be construed
144 to prevent any person or entity from pursuing any other action or
145 remedy at law or equity that it may have against the owner of a Class I
146 or Class II renewable energy source or Class III source.

147 Sec. 3. Subsection (b) of section 16-243t of the general statutes is
148 repealed and the following is substituted in lieu thereof (*Effective from*
149 *passage*):

150 (b) In order to be eligible for ongoing Class III credits, the customer
151 shall file an application that contains information necessary for the
152 authority to determine that the resource qualifies for Class III status, in
153 addition to the requirements set forth in section 1 of this act. Such
154 application shall (1) certify that installation and metering requirements
155 have been met where appropriate, (2) provide a detailed energy
156 savings or energy output calculation for such time period as specified
157 by the authority, and (3) include any other information that the
158 authority deems appropriate.

159 Sec. 4. Subsection (b) of section 16-243q of the general statutes is
160 repealed and the following is substituted in lieu thereof (*Effective from*
161 *passage*):

162 (b) Except as provided in subsection (d) of this section, the Public
163 Utilities Regulatory Authority shall assess each electric supplier and
164 each electric distribution company that fails to meet the percentage
165 standards of subsection (a) of this section a charge of up to [five and
166 five-tenths] three and one-tenth cents for each kilowatt hour of
167 electricity that such supplier or company is deficient in meeting such
168 percentage standards. Seventy-five per cent of such assessed charges
169 shall be deposited in the Energy Conservation and Load Management
170 Fund established in section 16-245m, and twenty-five per cent shall be
171 deposited in the Clean Energy Fund established in section 16-245n,
172 except that such seventy-five per cent of assessed charges with respect
173 to an electric supplier shall be divided among the Energy Conservation

174 and Load Management Funds of electric distribution companies in
175 proportion to the amount of electricity such electric supplier provides
176 to end use customers in the state using the facilities of each electric
177 distribution company.

178 Sec. 5. Subsection (d) of section 16-243q of the general statutes is
179 repealed and the following is substituted in lieu thereof (*Effective from*
180 *passage*):

181 (d) An electric distribution company providing standard service
182 may contract with its wholesale suppliers to comply with the
183 conservation and customer-side distributed resources standards set
184 forth in subsection (a) of this section. The Public Utilities Regulatory
185 Authority shall annually conduct a contested case, in accordance with
186 the provisions of chapter 54, to determine whether the electric
187 distribution company's wholesale suppliers met the conservation and
188 distributed resources standards during the preceding year. Any such
189 contract shall include a provision that requires such supplier to pay the
190 electric distribution company in an amount of up to [five and one-half]
191 three and one-tenth cents per kilowatt hour if the wholesale supplier
192 fails to comply with the conservation and distributed resources
193 standards during the subject annual period. The electric distribution
194 company shall immediately transfer seventy-five per cent of any
195 payment received from the wholesale supplier for the failure to meet
196 the conservation and distributed resources standards to the Energy
197 Conservation and Load Management Fund and twenty-five per cent to
198 the Clean Energy Fund. Any payment made pursuant to this section
199 shall not be considered revenue or income to the electric distribution
200 company.

201 Sec. 6. Subdivision (1) of subsection (j) of section 16-244c of the
202 general statutes is repealed and the following is substituted in lieu
203 thereof (*Effective from passage*):

204 (j) (1) Notwithstanding the provisions of subsection (d) of this

205 section regarding an alternative transitional standard offer option or
206 an alternative standard service option, an electric distribution
207 company providing transitional standard offer service, standard
208 service, supplier of last resort service or back-up electric generation
209 service in accordance with this section shall contract with its wholesale
210 suppliers to comply with the renewable portfolio standards. The
211 Public Utilities Regulatory Authority shall annually conduct a
212 contested case, in accordance with the provisions of chapter 54, in
213 order to determine whether the electric distribution company's
214 wholesale suppliers met the renewable portfolio standards during the
215 preceding year. An electric distribution company shall include a
216 provision in its contract with each wholesale supplier that requires the
217 wholesale supplier to pay the electric distribution company an amount
218 of [five and one-half] three and one-tenth cents per kilowatt hour if the
219 wholesale supplier fails to comply with the renewable portfolio
220 standards during the subject annual period. The electric distribution
221 company shall promptly transfer any payment received from the
222 wholesale supplier for the failure to meet the renewable portfolio
223 standards to the Clean Energy Fund for the development of Class I
224 renewable energy sources. Any payment made pursuant to this section
225 shall not be considered revenue or income to the electric distribution
226 company.

227 Sec. 7. Subsection (b) of section 16-244r of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective from*
229 *passage*):

230 (b) Solicitations conducted by the electric distribution company
231 shall be for the purchase of renewable energy credits produced by
232 eligible customer-sited generating projects over the duration of the
233 long-term contract. For purposes of this section, a long-term contract is
234 a contract for fifteen years. Such credits may be used to comply with
235 the renewable portfolio standards established in section 16-245a, as
236 amended by this act, in the year during which such credits are
237 generated and the following two years.

238 Sec. 8. Subsections (a) and (b) of section 16-244t of the general
239 statutes are repealed and the following is substituted in lieu thereof
240 (*Effective from passage*):

241 (a) Commencing on January 1, 2012, and within one hundred eighty
242 days, each electric distribution company shall solicit and file with the
243 Public Utilities Regulatory Authority for its approval one or more
244 fifteen-year power purchase contracts with owners or developers of
245 generation projects that are less than two megawatts in size, located on
246 the customer side of the revenue meter, serve the distribution system
247 of the electric distribution company, and use Class I technologies that
248 have no emissions of no more than 0.07 pounds per megawatt-hour of
249 nitrogen oxides, 0.10 pounds per megawatt-hour of carbon monoxide,
250 0.02 pounds per megawatt-hour of volatile organic compounds, and
251 one grain per one hundred standard cubic feet. No generation project
252 eligible for a long-term contract pursuant to section 16-244r, as
253 amended by this act, shall be eligible for a fifteen-year power purchase
254 contract under this section. The authority may give a preference to
255 contracts for technologies manufactured, researched or developed in
256 the state.

257 (b) Solicitations conducted by the electric distribution company
258 shall be for the purchase of renewable energy credits produced by
259 eligible customer-sited generating projects over the duration of the
260 contract. Such credits may be used to comply with the renewable
261 portfolio standards established in section 16-245a, as amended by this
262 act, in the year during which such credits are generated and the
263 following two years.

264 Sec. 9. Subsection (k) of section 16-245 of the general statutes is
265 repealed and the following is substituted in lieu thereof (*Effective from*
266 *passage*):

267 (k) Any licensee who fails to comply with a license condition or who
268 violates any provision of this section, except for the renewable

269 portfolio standards contained in subsection (g) of this section, shall be
270 subject to civil penalties by the Public Utilities Regulatory Authority in
271 accordance with section 16-41, or the suspension or revocation of such
272 license or a prohibition on accepting new customers following a
273 hearing that is conducted as a contested case in accordance with
274 chapter 54. Notwithstanding the provisions of subsection (d) of section
275 16-244c regarding an alternative transitional standard offer option or
276 an alternative standard service option, the authority shall require a
277 payment by a licensee that fails to comply with the renewable portfolio
278 standards in accordance with subdivision (4) of subsection (g) of this
279 section in the amount of [five and one-half] three and one-tenth cents
280 per kilowatt hour. The authority shall allocate such payment to the
281 Clean Energy Fund for the development of Class I renewable energy
282 sources.

283 Sec. 10. Subsection (b) of section 16-245a of the general statutes is
284 repealed and the following is substituted in lieu thereof (*Effective from*
285 *passage*):

286 (b) An electric supplier or electric distribution company may satisfy
287 the requirements of this section (1) by purchasing certificates issued by
288 the New England Power Pool Generation Information System,
289 provided the certificates are for (A) energy produced by a generating
290 unit using Class I or Class II renewable energy sources and the
291 generating unit is located in the jurisdiction of the regional
292 independent system operator, or (B) energy imported into the control
293 area of the regional independent system operator pursuant to New
294 England Power Pool Generation Information System Rule 2.7(c), as in
295 effect on January 1, 2006; (2) for those renewable energy certificates
296 under contract to serve end-use customers in the state on or before
297 October 1, 2006, by participating in a renewable energy trading
298 program within said jurisdictions as approved by the Public Utilities
299 Regulatory Authority; [or] (3) by purchasing eligible renewable
300 electricity and associated attributes from residential customers who are
301 net producers; or (4) by purchasing renewable energy credits from a

302 generating unit located in the state of New York, Pennsylvania, New
303 Jersey, Maryland or Delaware, provided (A) such generating unit uses
304 the equivalent of a Class I or Class II renewable energy source, and (B)
305 the Public Utilities Regulatory Authority determines such state has a
306 renewable portfolio standards program comparable to the renewable
307 portfolio standards established in section 16-245a, as amended by this
308 act.

309 Sec. 11. Subsection (e) of section 16-245a of the general statutes is
310 repealed and the following is substituted in lieu thereof (*Effective from*
311 *passage*):

312 (e) (1) A supplier or an electric distribution company may make up
313 any deficiency within its renewable energy portfolio within the first
314 three months of the succeeding calendar year or [as otherwise
315 provided by generation information system operating rules approved
316 by New England Power Pool or its successor to meet the generation
317 source requirements of subsection (a) of this section for the previous
318 year] use renewable energy credits not used for compliance with any
319 state renewable portfolio standards program from the previous two
320 compliance years.

321 (2) No such supplier or electric distribution company shall receive
322 credit for the current calendar year for generation from Class I or Class
323 II renewable energy sources pursuant to this section where such
324 supplier or distribution company receives credit for the preceding
325 calendar year pursuant to subdivision (1) of this subsection.

326 Sec. 12. Subdivision (5) of subsection (f) of section 16-245o of the
327 general statutes is repealed and the following is substituted in lieu
328 thereof (*Effective from passage*):

329 (5) (A) Each electric supplier shall disclose to the Public Utilities
330 Regulatory Authority in a standardized format [(A)] (i) the amount of
331 additional renewable energy credits such supplier will purchase
332 beyond required credits, [(B)] (ii) where such additional credits are

333 being sourced from, and [(C)] (iii) the types of renewable energy
 334 sources that will be purchased. Each electric supplier shall only
 335 advertise renewable energy credits purchased beyond those required
 336 pursuant to section 16-245a, as amended by this act, and shall report to
 337 the authority the renewable energy sources of such credits and
 338 whenever the mix of such sources changes.

339 (B) Each market participant, including any generator, broker or
 340 person, that purchases or sells renewable energy credits certified in the
 341 state of Connecticut, shall disclose to the Public Utilities Regulatory
 342 Authority each month in a standardized format (i) the originating
 343 source of each such credit purchased or sold, (ii) the name and location
 344 of the purchaser or seller, (iii) the date of the transaction, and (iv) the
 345 purchase price of such credit.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>from passage</i>	16-243t(b)
Sec. 4	<i>from passage</i>	16-243q(b)
Sec. 5	<i>from passage</i>	16-243q(d)
Sec. 6	<i>from passage</i>	16-244c(j)(1)
Sec. 7	<i>from passage</i>	16-244r(b)
Sec. 8	<i>from passage</i>	16-244t(a) and (b)
Sec. 9	<i>from passage</i>	16-245(k)
Sec. 10	<i>from passage</i>	16-245a(b)
Sec. 11	<i>from passage</i>	16-245a(e)
Sec. 12	<i>from passage</i>	16-245o(f)(5)

Statement of Purpose:

To create a certificate of eligibility for Class I and Class II renewable energy sources and Class III sources, to provide civil penalties for earning or transacting renewable energy credits while a facility or source did not qualify as a Class I or Class II renewable energy source or Class III source, to reduce alternative compliance payments, to extend the life of renewable energy credits, to prohibit projects eligible

for long-term contracts for zero emission renewable energy credits from applying for power purchase contracts for low-emission renewable energy credits, and to increase transparency in buying and selling of renewable energy credits.

[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.]