



**Substitute Senate Bill No. 1138**

**Public Act No. 13-303**

**AN ACT CONCERNING CONNECTICUT'S CLEAN ENERGY GOALS.**

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

Section 1. Subdivision (26) of subsection (a) of section 16-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(26) "Class I renewable energy source" means (A) [energy] electricity derived from (i) solar power, (ii) wind power, (iii) a fuel cell, [methane gas from landfills,] (iv) geothermal, (v) landfill methane gas, anaerobic digestion or other biogas derived from biological sources, (vi) thermal electric direct energy conversion from a certified Class I renewable energy source, (vii) ocean thermal power, (viii) wave or tidal power, (ix) low emission advanced renewable energy conversion technologies, (x) a run-of-the-river hydropower facility [provided such facility] that began operation after July 1, 2003, and has a generating capacity of not more than [five megawatts, does not cause an appreciable change in the river flow, and began operation after July 1, 2003] thirty megawatts, provided a facility that applies for certification under this clause after January 1, 2013, shall not be based on a new dam or a dam identified by the commissioner as a candidate for removal, and shall meet applicable state and federal requirements, including applicable

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site-specific standards for water quality and fish passage, or (xi) a [sustainable biomass facility with] biomass facility that uses sustainable biomass fuel and has an average emission rate of equal to or less than .075 pounds of nitrogen oxides per million BTU of heat input for the previous calendar quarter, except that energy derived from a [sustainable] biomass facility with a capacity of less than five hundred kilowatts that began construction before July 1, 2003, may be considered a Class I renewable energy source, or (B) any electrical generation, including distributed generation, generated from a Class I renewable energy source, provided, on and after January 1, 2014, any megawatt hours of electricity from a renewable energy source described under this subparagraph that are claimed or counted by a load-serving entity, province or state toward compliance with renewable portfolio standards or renewable energy policy goals in another province or state, other than the state of Connecticut, shall not be eligible for compliance with the renewable portfolio standards established pursuant to section 16-245a, as amended by this act;

Sec. 2. Subdivision (44) of subsection (a) of section 16-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(44) "Class III source" means the electricity output from combined heat and power systems with an operating efficiency level of no less than fifty per cent that are part of customer-side distributed resources developed at commercial and industrial facilities in this state on or after January 1, 2006, a waste heat recovery system installed on or after April 1, 2007, that produces electrical or thermal energy by capturing preexisting waste heat or pressure from industrial or commercial processes, or the electricity savings created in this state from conservation and load management programs begun on or after January 1, 2006, provided on and after January 1, 2014, no such programs supported by ratepayers, including programs overseen by

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the Energy Conservation Management Board or third-party programs pursuant to section 16-245m, shall be considered a Class III source, except that any demand-side management project awarded a contract pursuant to section 16-243m shall remain eligible as a Class III source for the term of such contract;

Sec. 3. Subdivision (45) of subsection (a) of section 16-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(45) "Sustainable biomass fuel" means biomass that is cultivated and harvested in a sustainable manner. "Sustainable biomass fuel" does not mean construction and demolition waste, as defined in section 22a-208x, finished biomass products from sawmills, paper mills or stud mills, organic refuse fuel derived separately from municipal solid waste, or biomass from old growth timber stands, except where (A) such biomass is used in a biomass gasification plant that received funding prior to May 1, 2006, from the Clean Energy Fund established pursuant to section 16-245n, or (B) the energy derived from such biomass is subject to a long-term power purchase contract pursuant to subdivision (2) of subsection (j) of section 16-244c entered into prior to May 1, 2006; [ (C) such biomass is used in a renewable energy facility that is certified as a Class I renewable energy source by the authority until such time as the authority certifies that any biomass gasification plant, as defined in subparagraph (A) of this subdivision, is operational and accepting such biomass, in an amount not to exceed one hundred forty thousand tons annually, is used in a renewable energy facility that was certified as a Class I renewable energy source by the authority prior to December 31, 2007, and uses biomass, including construction and demolition waste as defined in section 22a-208x, from a Connecticut-sited transfer station and volume-reduction facility that generated biomass during calendar year 2007 that was used during calendar year 2007 to generate Class I renewable energy

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certificates, or (D) in the event there is no facility as described in subparagraph (A) or (C) of this subdivision accepting such biomass, in an amount not to exceed one hundred forty thousand tons annually, is used in one or more other renewable energy facilities certified either as a Class I or Class II renewable energy source by the authority, provided such facilities use biomass, including construction and demolition waste as defined in said section 22a-208x, from a Connecticut-sited transfer station and volume-reduction facility that generated biomass during calendar year 2007 that was used during calendar year 2007 to generate Class I renewable energy certificates. Notwithstanding the provisions of subparagraphs (C) and (D) of this subdivision, the amount of biomass specified in said subparagraphs shall not apply to a biomass gasification plant, as defined in subparagraph (A) of this subdivision;]

Sec. 4. Subsection (a) of section 16-1 of the general statutes is amended by adding subdivision (53) as follows (*Effective from passage*):

(NEW) (53) "Large-scale hydropower" means any hydropower facility that (A) began operation on or after January 1, 2003, (B) is located in the New England Power Pool Generation Information System geographic eligibility area in accordance with Rule 2.3 of said system or an area abutting the northern boundary of the New England Power Pool Generation Information System geographic eligibility area that is not interconnected with any other control area that is not a part of the New England Power Pool Generation Information System geographic eligibility area, (C) delivers power into such geographic eligibility area, and (D) has a generating capacity of more than thirty megawatts.

Sec. 5. Section 16-245a of the general statutes is amended by adding subsection (h) as follows (*Effective from passage*):

(NEW) (h) On or before January 1, 2014, the Commissioner of

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Energy and Environmental Protection shall, in developing or modifying an Integrated Resources Plan in accordance with sections 16a-3a and 16a-3e, establish a schedule to commence on January 1, 2015, for assigning a gradually reduced renewable energy credit value to all biomass or landfill methane gas facilities that qualify as a Class I renewable energy source pursuant to section 16-1, as amended by this act, provided this subsection shall not apply to anaerobic digestion or other biogas facilities, and further provided any reduced renewable energy credit value established pursuant to this section shall not apply to any biomass or landfill methane gas facility that has entered into a power purchase agreement (1) with an electric supplier or electric distribution company in the state of Connecticut on or before the effective date of this section, or (2) executed in accordance with section 6 or 8 of this act. The Commissioner of Energy and Environmental Protection may review the schedule established pursuant to this subsection in preparation of each subsequent Integrated Resources Plan developed pursuant to section 16a-3a and make any necessary changes thereto to ensure that the rate of reductions in renewable energy credit value for biomass or landfill methane gas facilities is appropriate given the availability of other Class I renewable energy sources.

Sec. 6. (NEW) (*Effective from passage*) On or after January 1, 2013, the Commissioner of Energy and Environmental Protection, in consultation with the procurement manager identified in subsection (l) of section 16-2 of the general statutes, the Office of Consumer Counsel and the Attorney General, may, in coordination with other states in the region of the regional independent system operator, as defined in section 16-1 of the general statutes, as amended by this act, or on the commissioner's own, solicit proposals, in one solicitation or multiple solicitations, from providers of Class I renewable energy sources, as defined in section 16-1 of the general statutes, as amended by this act, constructed on or after January 1, 2013. If the commissioner finds such

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proposals to be in the interest of ratepayers including, but not limited to, the delivered price of such sources, and consistent with the requirements to reduce greenhouse gas emissions in accordance with section 22a-200a of the general statutes, and in accordance with the policy goals outlined in the Comprehensive Energy Strategy, adopted pursuant to section 16a-3d of the general statutes, the commissioner may select proposals from such resources to meet up to four per cent of the load distributed by the state's electric distribution companies. The commissioner may direct the electric distribution companies to enter into power purchase agreements for energy, capacity and environmental attributes, or any combination thereof, for periods of not more than twenty years. Certificates issued by the New England Power Pool Generation Information System for any Class I renewable energy sources procured under this section shall be sold in the New England Power Pool Generation Information System renewable energy credit market to be used by any electric supplier or electric distribution company to meet the requirements of section 16-245a of the general statutes, as amended by this act. Any such agreement shall be subject to review and approval by the Public Utilities Regulatory Authority, which review shall commence upon the filing of the signed power purchase agreement with the authority. The authority shall issue a decision on such agreement not later than thirty days after such filing. In the event the authority does not issue a decision within thirty days after such agreement is filed with the authority, the agreement shall be deemed approved. The net costs of any such agreement shall be recovered through a fully reconciling component of electric rates for all customers of electric distribution companies. Such costs may include reasonable costs incurred by electric distribution companies pursuant to this section.

Sec. 7. (NEW) (*Effective from passage*) On or after July 1, 2013, the Commissioner of Energy and Environmental Protection, in consultation with the procurement manager identified in subsection (l)

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of section 16-2 of the general statutes, the Office of Consumer Counsel and the Attorney General, may, in coordination with other states in the region of the regional independent system operator, as defined in section 16-1 of the general statutes, as amended by this act, or on the commissioner's own, solicit proposals, in one solicitation or multiple solicitations, from providers of Class I renewable energy sources, as defined in section 16-1 of the general statutes, as amended by this act, or verifiable large-scale hydropower, as defined in section 16-1 of the general statutes, as amended by this act. If the commissioner finds such proposals to be in the interest of ratepayers, including, but not limited to, the delivered price of such sources, and consistent with the requirements to reduce greenhouse gas emissions in accordance with section 22a-200a of the general statutes, and in accordance with the policy goals outlined in the Comprehensive Energy Strategy, adopted pursuant to section 16a-3d of the general statutes, and section 129 of public act 11-80, including, but not limited to, base load capacity, peak load shaving and promotion of wind, solar and other renewable and low carbon energy technologies, the commissioner may select proposals from such resources to meet up to five per cent of the load distributed by the state's electric distribution companies. The commissioner may on behalf of all customers of electric distribution companies, direct the electric distribution companies to enter into power purchase agreements for energy, capacity and any environmental attributes, or any combination thereof, for periods of not more than (1) fifteen years, if any such agreement is with a provider of verifiable large-scale hydropower, or (2) twenty years, if any such agreement is with a provider of a Class I renewable energy source. Certificates issued by the New England Power Pool Generation Information System for any Class I renewable energy sources procured under this section shall be sold in the New England Power Pool Generation Information System renewable energy credit market to be used by any electric supplier or electric distribution company to meet the requirements of section 16-245a of the general statutes, as amended

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by this act. Any such agreement shall be subject to review and approval by the Public Utilities Regulatory Authority, which review shall (A) include a public hearing, and (B) be completed not later than sixty days after the date on which such agreement is filed with the authority. The net costs of any such agreement shall be recovered through a fully reconciling component of electric rates for all customers of electric distribution companies. Such costs may include the reasonable costs incurred by the electric distribution companies pursuant to this section.

Sec. 8. (NEW) (*Effective from passage*) On or after October 1, 2013, the Commissioner of Energy and Environmental Protection, in consultation with the procurement manager identified in subsection (l) of section 16-2 of the general statutes, the Office of the Consumer Counsel and the Attorney General, may solicit proposals, in one solicitation or multiple solicitations, from providers of run-of-the-river hydropower, landfill methane gas or biomass, provided such source meets the definition of a Class I renewable energy source pursuant to section 16-1 of the general statutes, as amended by this act. In making any selection of such proposals, the commissioner shall consider factors, including, but not limited to (1) whether the proposal is in the interest of ratepayers, including, but not limited to, the delivered price of such sources, (2) the emissions profile of a relevant facility, (3) any investments made by a relevant facility to improve the emissions profile of such facility, (4) the length of time a relevant facility has received renewable energy credits, (5) any positive impacts on the state's economic development, (6) whether the proposal is consistent with requirements to reduce greenhouse gas emissions in accordance with section 22a-200a of the general statutes, and (7) whether the proposal is consistent with the policy goals outlined in the Comprehensive Energy Strategy adopted pursuant to section 16a-3d of the general statutes. The commissioner may select proposals from such resources to meet up to four per cent of the load distributed by the



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state's electric distribution companies. The commissioner may direct the electric distribution companies to enter into power purchase agreements for energy, capacity and environmental attributes, or any combination thereof, for periods of not more than ten years on behalf of all customers of the state's electric distribution companies. Certificates issued by the New England Power Pool Generation Information System for any Class I renewable energy sources procured under this section shall be sold in the New England Power Pool Generation Information System renewable energy credit market to be used by any electric supplier or electric distribution company to meet the requirements of section 16-245a of the general statutes, as amended by this act. Any such agreement shall be subject to review and approval by the Public Utilities Regulatory Authority, which review shall be completed not later than sixty days after the date on which such agreement is filed with the authority. The net costs of any such agreement shall be recovered through a fully reconciling component of electric rates for all customers of electric distribution companies. Such costs may include the reasonable costs incurred by the electric distribution companies pursuant to this section.

Sec. 9. (NEW) (*Effective from passage*) (a) During the calendar year commencing January 1, 2014, and continuing each calendar year thereafter, if alternative compliance payments pursuant to subsection (j) of section 16-244c of the general statutes, as amended by this act, or subsection (k) of section 16-245 of the general statutes, as amended by this act, are made for failure to meet the renewable portfolio standards, there shall be a presumption for the calendar year the alternative compliance payments are made that there is an insufficient supply of Class I renewable energy sources, as defined in section 16-1 of the general statutes, as amended by this act, for electric suppliers or electric distribution companies to comply with the requirements of section 16-245a of the general statutes, as amended by this act.

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(b) In the event there is a presumption of insufficient supply of Class I renewable energy sources pursuant to subsection (a) of this section for the calendar year the alternative compliance payments are made, the Commissioner of Energy and Environmental Protection may determine whether such payments resulted from a material shortage of Class I renewable energy sources. In making this determination, the commissioner shall consider whether such payments resulted from intentional or negligent action by an electric supplier or electric distribution company not to purchase renewable energy credits available in the New England Power Pool Generation Information System market.

(c) In the event there is such a presumption pursuant to subsection (a) of this section and the commissioner finds that the alternative compliance payments were due to a material shortage of Class I renewable energy sources pursuant to subsection (b) of this section, the commissioner shall determine the adequacy, or potential adequacy, of Class I renewable energy sources to meet the succeeding years' renewable portfolio standard. In making this determination, the commissioner may consider (1) future cost and availability of certificates issued by the New England Power Pool Generation Information System based on the status of projects under development in the region, (2) future requirements of certificates issued by the New England Power Pool Generation Information System in other states, and (3) the projected compliance costs of Class I renewable energy sources.

(d) In the event there is such a presumption pursuant to subsection (a) of this section and the commissioner finds a material shortage of Class I renewable energy sources pursuant to subsection (b) of this section, and in addition to determining the adequacy pursuant to subsection (c) of this section, the commissioner shall, in consultation with the procurement manager identified in subsection (l) of section

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16-2 of the general statutes, the Office of Consumer Counsel and the Attorney General, solicit proposals from providers of Class I renewable energy sources, as defined in section 16-1 of the general statutes, as amended by this act, operational as of the date that such solicitation is issued. If the commissioner, in consultation with the procurement manager identified in subsection (l) of section 16-2 of the general statutes, finds such proposals to be in the interest of ratepayers including, but not limited to, the delivered price of such sources, and consistent with the requirements to reduce greenhouse gas emissions in accordance with section 22a-200a of the general statutes, and in accordance with the policy goals outlined in the Comprehensive Energy Strategy, adopted pursuant to section 16a-3d of the general statutes, the commissioner, in consultation with the procurement manager identified in subsection (l) of section 16-2 of the general statutes, may select proposals from such sources to meet up to the amount necessary to ensure an adequate incremental supply of Class I renewable energy sources to rectify any projected shortage of Class I renewable energy supply identified pursuant to subsection (c) of this section. The commissioner shall direct the electric distribution companies to enter into power purchase agreements for energy, capacity and environmental attributes, or any combination thereof, from such selected proposals for periods of not more than ten years. Certificates issued by the New England Power Pool Generation Information System for any Class I renewable energy sources procured under this section shall be sold in the New England Power Pool Generation Information System renewable energy credit market to be used by any electric supplier or electric distribution company to meet the requirements of section 16-245a of the general statutes, as amended by this act. Any such agreement shall be subject to review and approval by the Public Utilities Regulatory Authority, which review shall commence upon the filing of the signed power purchase agreement with the authority. The authority shall issue a decision on such agreement not later than thirty days after such filing. In the event

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the authority does not issue a decision within thirty days after such agreement is filed with the authority, the agreement shall be deemed approved. The net costs of any such agreement shall be recovered through a fully reconciling component of electric rates for all customers of electric distribution companies. Such costs may include reasonable costs incurred by electric distribution companies pursuant to this section.

(e) Notwithstanding subsection (b) of section 16-245a of the general statutes, as amended by this act, in the event that (1) for any calendar year commencing on or after January 1, 2014, there is such a presumption pursuant to subsection (a) of this section, (2) the commissioner finds material shortage of Class I renewable energy sources pursuant to subsection (b) of this section, (3) there is a determination of inadequacy pursuant to subsection (c) of this section, and (4) any contracts for Class I renewable energy sources approved by the Public Utilities Regulatory Authority pursuant to subsection (d) of this section yield an amount of Class I renewable energy sources that is insufficient to rectify any projected shortage pursuant to subsection (c) of this section, then commencing on or after January 1, 2016, the commissioner may allow not more than one percentage point of the Class I renewable portfolio standards established pursuant to section 16-245a of the general statutes, as amended by this act, effective for the succeeding and subsequent calendar years to be satisfied by large-scale hydropower procured pursuant to section 7 of this act. The requirements applicable to electric suppliers and electric distribution companies pursuant to section 16-245a of the general statutes, as amended by this act, shall consequently be reduced by not more than one percentage point in proportion to the commissioner's action, provided (A) the commissioner shall not allow a total of more than five percentage points of the Class I renewable portfolio standard to be met by large-scale hydropower by December 31, 2020, and (B) no such large-scale hydropower shall be eligible to trade in the New England

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Power Pool Generation Information System renewable energy credit market.

Sec. 10. Subdivision (1) of subsection (j) of section 16-244c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(j) (1) Notwithstanding the provisions of subsection (d) of this section regarding an alternative transitional standard offer option or an alternative standard service option, an electric distribution company providing transitional standard offer service, standard service, supplier of last resort service or back-up electric generation service in accordance with this section shall contract with its wholesale suppliers to comply with the renewable portfolio standards. The Public Utilities Regulatory Authority shall annually conduct [a contested case, in accordance with the provisions of chapter 54,] an uncontested proceeding in order to determine whether the electric distribution company's wholesale suppliers met the renewable portfolio standards during the preceding year. On or before December 31, 2013, the authority shall issue a decision on any such proceeding for calendar years up to and including 2012, for which a decision has not already been issued. Not later than December 31, 2014, and annually thereafter, the authority shall, following such proceeding, issue a decision as to whether the electric distribution company's wholesale suppliers met the renewable portfolio standards during the preceding year. An electric distribution company shall include a provision in its contract with each wholesale supplier that requires the wholesale supplier to pay the electric distribution company an amount of five and one-half cents per kilowatt hour if the wholesale supplier fails to comply with the renewable portfolio standards during the subject annual period. The electric distribution company shall promptly transfer any payment received from the wholesale supplier for the failure to meet the renewable portfolio standards to the Clean

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Energy Fund for the development of Class I renewable energy sources, [. Any payment made pursuant to this section shall not be considered revenue or income to the electric distribution company.] provided, on and after the effective date of this section, any such payment shall be refunded to ratepayers by using such payment to offset the costs to all customers of electric distribution companies of the costs of contracts entered into pursuant to sections 16-244r and 16-244t. Any excess amount remaining from such payment shall be applied to reduce the costs of contracts entered into pursuant to subdivision (2) of this subsection, and if any excess amount remains, such amount shall be applied to reduce costs collected through nonbypassable, federally-mandated congestion charges, as defined in section 16-1, as amended by this act.

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

(k) Any licensee who fails to comply with a license condition or who violates any provision of this section, except for the renewable portfolio standards contained in subsection (g) of this section, shall be subject to civil penalties by the Public Utilities Regulatory Authority in accordance with section 16-41, or the suspension or revocation of such license or a prohibition on accepting new customers following a hearing that is conducted as a contested case in accordance with chapter 54. Notwithstanding the provisions of subsection (d) of section 16-244c regarding an alternative transitional standard offer option or an alternative standard service option, the authority shall require a payment by a licensee that fails to comply with the renewable portfolio standards in accordance with subdivision (4) of subsection (g) of this section in the amount of five and one-half cents per kilowatt hour. On or before December 31, 2013, the authority shall issue a decision, following an uncontested proceeding, on whether any licensee has

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failed to comply with the renewable portfolio standards for calendar years up to and including 2012, for which a decision has not already been issued. On and after the effective date of this section, the Public Utilities Regulatory Authority shall annually conduct an uncontested proceeding in order to determine whether any licensee has failed to comply with the renewable portfolio standards during the preceding year. Not later than December 31, 2014, and annually thereafter, the authority shall, following such proceeding, issue a decision as to whether the licensee has failed to comply with the renewable portfolio standards during the preceding year. The authority shall allocate such payment to the Clean Energy Fund for the development of Class I renewable energy sources, provided, on and after the effective date of this section, any such payment shall be refunded to ratepayers by using such payment to offset the costs to all customers of electric distribution companies of the costs of contracts entered into pursuant to sections 16-244r and 16-244t. Any excess amount remaining from such payment shall be applied to reduce the costs of contracts entered into pursuant to subdivision (2) of subsection (j) of section 16-244c, and if any excess amount remains, such amount shall be applied to reduce costs collected through nonbypassable, federally-mandated congestion charges, as defined in section 16-1, as amended by this act.

Approved June 5, 2013