
OLR Bill Analysis

sSB 839

AN ACT CONCERNING STATUTORY CHANGES TO ADVANCE CONNECTICUT'S ENERGY POLICIES.

SUMMARY:

This bill modifies the relationship between the Public Utilities Regulatory Authority (PURA) and the Department of Energy and Environmental Protection (DEEP). Among other things, it expands the PURA chairperson's autonomy, establishes guidelines for all PURA decisions, and transfers certain regulation-making authority from DEEP to PURA.

The bill also makes several changes in the processes for approving and implementing the state's electricity Procurement Plan, Integrated Resources Plan (IRP), and Comprehensive Energy Plan. Among other things, it (1) renames the Comprehensive Energy Plan the Comprehensive Energy Strategy (CES), (2) replaces requirements for public hearings with requirements for public and technical meetings, (3) increases the time allowed for public comments on the plans, and (4) limits the scope of PURA's comments on the CES.

The bill makes several miscellaneous changes in the energy statutes, including (1) removing the limits on fees and subsidies for Home Energy Solutions audits; (2) allowing PURA, DEEP, and the Office of Consumer Counsel (OCC) to retain certain consultants; and (3) making ductless heat pumps eligible under the residential heating equipment financing program. It also repeals an obsolete provision for a federally funded weatherization assistance program and makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except for the provision allowing PURA, DEEP, and OCC to retain consultants, which is

effective July 1, 2013.

PURA

PA 11-80 merged the former departments of Public Utility Control (DPUC) and Environmental Protection into DEEP. Under prior law, DPUC was run by five commissioners, collectively known as the Public Utilities Control Authority. PA 11-80 (1) renamed this group PURA, (2) renamed the commissioners “directors,” and (3) reduced their number from five to three. By law, PURA is part of DEEP, but has its own specific powers and duties. The bill renames the directors “utility commissioners.” It allows the DEEP commissioner to designate someone to act on his behalf with regard his utility-related duties and powers.

PURA Chairperson’s Autonomy

The bill expands the PURA chairperson’s autonomy. Under current law, the chairperson must, with the DEEP commissioner’s approval, prescribe the duties of staff assigned to PURA in its various areas of responsibility. Under the bill, the chairperson must still obtain the commissioner’s approval when dealing with PURA’s organization and planning its functions. But, to implement this organization and planning, he does not need the commissioner’s approval for (1) prescribing the duties of staff assigned to PURA, (2) coordinating PURA’s activities, (3) determining how staff are assigned in rate cases, (4) entering contracts, (5) receiving outside revenue, and (6) requiring PURA staff to have relevant expertise.

PURA Decision Guidelines

Under current law, PURA’s decisions must be guided by DEEP’s statutory goals, the IRP’s goals, and the CEP’s goals. The bill additionally requires that PURA decisions, including those related to rate cases arising from the CES, IRP, conservation load management plan, and DEEP policies, be guided by the plan, strategy, and policies.

Current law requires PURA to use new principles and rate structures if it is in the public interest. The bill specifies that DEEP determines the public interest in the IRP and CES. Under current law,

DEEP's actions must conform with, as far as possible, the state energy policy as described in CGS § 16a-35k. The bill additionally requires DEEP to act, as far as possible, in conformity with state energy policies as described in the IRP and CES.

Regulation Making

The bill eliminates current law's requirement that PURA consult with DEEP in adopting regulations on utility rates, services, operating procedures, and related matters. It allows PURA, rather than DEEP in consultation with PURA, to adopt regulations regarding competitive electric suppliers. It allows PURA, rather than DEEP in consultation with the Office of Policy and Management, to establish standards for cogeneration technologies and renewable fuel resources. In the last case, PURA must act in accordance with DEEP policies.

Division of Adjudication

The bill places the Division of Adjudication in PURA, rather than DEEP, and eliminates current law's requirement that the division advise the DEEP commissioner.

Under current law, a PURA hearing panel must ask the DEEP commissioner to appoint a hearing officer from the division to investigate a case for it. The bill allows the PURA chairperson, rather than the DEEP commissioner, to appoint hearing officers in these instances, but it also allows PURA hearing panels to assign hearing officers in their cases. It is unclear which method should be used under the bill.

PURA Proceedings

The bill makes the DEEP commissioner a party in each proceeding before PURA and allows him to participate to the extent that he deems necessary. It allows him to appeal a decision, order, or authorization to the Superior Court (1) without a having to demonstrate aggrievement and (2) regardless of whether he appeared or participated in the proceeding.

It also allows the Department of Economic and Community

Development commissioner and the Siting Council to be parties to all electric and gas company rate cases, rather than just those based on an alleged need for funding for capital expansions, as under current law.

The bill also makes any PURA request for proposals or other procurement process to acquire electricity products or services to benefit ratepayers an uncontested proceeding. This eliminates the possibility of appealing decisions in these cases to the court.

STATE ENERGY PLANS

Procurement Plan

The law requires PURA's procurement manager, in consultation with the electric companies, to prepare a plan for procuring electric generation services that will allow the companies to reduce the cost of providing standard service while keeping cost volatility within reasonable levels. The bill eliminates current law's requirement for the procurement manager to (1) hold a public hearing on the proposed plan and (2) have quarterly meetings with the DEEP commissioner.

The bill requires PURA, instead of DEEP, to (1) conduct an uncontested proceeding to approve the procurement plan with any amendments it finds necessary and (2) submit an annual report on the plan to the Energy and Technology Committee. The bill allows PURA to submit the report electronically. It also requires PURA to oversee the plan's implementation.

The bill allows PURA to recover all of its reasonable costs from developing the plan through the standard assessment on the utilities it regulates. It requires the electric companies to recover their reasonable costs from developing the plan through a reconciling non-bypassable component of their electric rates, as determined by PURA, rather than the assessment on all utilities that funds PURA.

Integrated Resources Plan

The law requires DEEP, in consultation with the Connecticut Energy Advisory Board (CEAB) and the electric companies, to review the state's energy and capacity resources and develop and approve an

integrated resources plan for procuring energy resources.

The bill eliminates current law's requirement for DEEP to hold a public hearing on the IRP. Instead, it requires the DEEP commissioner to conduct an uncontested proceeding with at least one public meeting and one technical meeting at which technical personnel will answer questions. The bill requires the commissioner to publish the proposed IRP and notice of a meeting on DEEP's web site at least (1) 15 days before a public meeting and (2) 30 days before a technical meeting.

The bill applies much of the current law's public hearing notice requirement to the notice requirement for public meetings. However, it additionally requires (1) any newspapers publishing the notice to have statewide circulation and (2) the notice to indicate the time period in which comments can be submitted to the commissioner. It increases the time the commissioner must allow for the public to review and comment on the proposal from 45 to 60 days. It also requires the meetings to be transcribed and posted on DEEP's web site.

It eliminates the requirements for (1) DEEP's Bureau of Energy to recommend plan modifications after the hearing and (2) the commissioner to include comments with his approval or rejection of the plan. It allows him to (1) correct any clerical errors in the IRP without following the bill's required procedures and (2) file the biannual progress report on the IRP electronically with the Energy and Technology Committee.

Current law allows DEEP to recover all costs associated with developing the IRP. The bill specifies that these costs must be reasonable. It also requires the electric companies to recover their reasonable costs associated with developing the plan through a reconciling non-bypassable component of their rates, as determined by PURA.

The bill allows PURA to open a proceeding to review any provision in the final IRP that requires funding through new or amended rates or charges to ensure that rates remain just and reasonable.

Under current law, PURA must issue a request for proposals if the IRP specifies constructing a generating facility. The bill broadens this requirement to cover IRP options to procure any new sources of generation. It requires PURA, when considering proposals responding to the request, to favor proposals for generation without any financial assistance, including long-term contract financing or ratepayer guarantees. It also adds the DEEP commissioner to the list of officials to whom PURA must make the bid information available.

Comprehensive Energy Strategy

Current law requires the DEEP commissioner, in consultation with CEAB, to prepare a comprehensive energy plan every three years. The bill renames the plan the comprehensive energy strategy and extends the deadline for the next CES from July 1, 2015 to October 1, 2016. In addition to the many factors the CES must consider by law, the bill requires it to incorporate the Energy Assurance Plan developed for the state under the federal American Recovery and Reinvestment Act of 2009, or any successor plan developed reasonably before the CES's preparation.

By law, the CES must address the benefits, costs, obstacles, and solutions related to the expansion, use, and availability of natural gas in the state. Under current law, if DEEP finds that expansion is in the public interest, it must develop a plan to increase gas's availability and use for transportation purposes. The bill expands this requirement to cover all types of gas uses if DEEP finds that expansion is in the public interest.

The bill eliminates current law's requirement for the DEEP commissioner to hold a public hearing on the CES. Instead, it requires him to conduct an uncontested proceeding with at least one public meeting and one technical meeting at which technical personnel will answer questions. The bill requires the commissioner to publish the proposed CES and notice of a meeting on DEEP's web site at least (1) 15 days before a public meeting and (2) 30 days before a technical meeting.

Similar to its IRP notice provisions, the bill applies much of the current law's public hearing notice requirement to the notice requirement for public meetings. It additionally requires (1) any newspapers publishing the notice to have statewide circulation and (2) the notice to indicate the time period in which comments can be submitted to the commissioner. It increases the time the commissioner must allow for the public to review and comment on the proposal from 45 to 60 days. It also requires the meetings to be transcribed and posted on DEEP's web site.

Current law requires PURA to comment on the plan's ratepayer impact during the proposed plan's comment period. The bill limits PURA's comments to the strategy's impact on natural gas and electric rates and does not specify when the comments must be provided in the approval process.

The bill eliminates the electric companies' ability to recover their reasonable costs for developing the resource assessment through the systems benefit charge. Presumably, they will be able to recover these costs (which are related to the IRP) through the IRP-related reconciling non-bypassable component of their rates allowed under the bill.

MISCELLANEOUS PROVISIONS

Home Energy Solutions Audits

By law, the Home Energy Solutions (HES) program offers residential customers a discounted home energy audit subsidized by the Energy Efficiency Fund. The bill eliminates current law's \$99 cap on HES fees, charges, and copays for an audit. It also eliminates the \$500,000 limit on subsidizing audits for ratepayers who do not primarily heat their homes with electricity or natural gas that will become effective on August 1, 2013.

Consultants

The bill allows PURA, DEEP, and OCC to retain consultants to (1) provide expertise in areas in which their staffs lack expertise and (2) supplement staff expertise for proceedings before certain federal regulatory entities. The regulated utilities affected by a proceeding

that required retaining consultants must pay their reasonable and proper expenses in a manner that PURA directs. The expenses must be (1) apportioned to the revenue each affected entity reported for its most recent assessment and (2) under \$250,000 annually per proceeding, including appeals, unless PURA finds good cause to exceed the limit. PURA must allow the utilities to recover these payments in their rates, if applicable.

Right of Entry

Under current law, the PURA directors and DEEP employees assigned to PURA can enter utilities' and electric suppliers' buildings at all reasonable times, and anyone who interferes with a director or DEEP employee in performing his or her duties is subject to a fine of up to \$200, imprisonment for up to six months, or both. The bill modifies the right of entry to all to include designees of the PURA utility commissioners, rather than DEEP employees, but does not make a parallel change in the penalty.

Condemnation of Power Plants

Under current law, a municipality cannot condemn or restrict the operations of certain energy facilities without written approval from CEAB, DEEP, and the Siting Council. The bill eliminates the need for CEAB's approval.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 16 Nay 8 (03/21/2013)