



**PA 13-298**—sHB 6360

*Energy and Technology Committee*

**AN ACT CONCERNING IMPLEMENTATION OF CONNECTICUT'S  
COMPREHENSIVE ENERGY STRATEGY AND VARIOUS REVISIONS  
TO THE ENERGY STATUTES**

**SUMMARY:** This act, among other things:

1. contains various measures to expand the natural gas distribution system;
2. expands the ability of electric and telecommunication companies to trim trees and other vegetation near their lines;
3. specifies conditions when telecommunications towers can be sited on water company lands;
4. modifies how electric and gas companies develop their conservation plans and how the plans are reviewed and approved and potentially increases funding for conservation plans;
5. eliminates the \$99 cap on fees in the Home Energy Solutions audit program and the annual \$500,000 cap on the subsidy for audits for customers who do not heat with electricity or gas;
6. requires the Energy Conservation Management Board (ECMB) and the Clean Energy Finance and Investment Authority (CEFIA) to establish a program to finance residential energy efficiency and renewable energy measures using private capital, with loans repaid on the electric or gas bills of participating customers;
7. modifies how the comprehensive energy strategy (CES) and integrated resources plan (IRP) are developed and approved;
8. (a) broadens eligibility for “virtual net metering,” which provides a billing credit for customers who generate electricity using certain renewable resources, (b) expands the maximum size of the generating unit that can take advantage of virtual net metering, and (c) potentially increases the value of the electric bill credit that participating customers receive;
9. broadens the circumstances where electric submeters can be installed;
10. transfers various responsibilities and powers from the Department of Energy and Environmental Protection (DEEP) to the Public Utilities Regulatory Authority (PURA);
11. requires DEEP to establish a pilot program to promote combined heat and power (cogeneration) systems by limiting the electric demand charge imposed on them;
12. reduces the maximum sulfur content of heating oil;
13. requires energy consumption benchmarking in state buildings to permit comparisons of building energy use; and
14. requires PURA to study the financial capacity and system viability of small community water companies.

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The sections not described below make minor, conforming, and technical changes.

EFFECTIVE DATE: Upon passage, except as noted.

### § 1 — PURA DIRECTORS

The act renames the three individuals who run PURA “utility commissioners,” rather than “directors.”

### § 2 — DEEP COMMISSIONER

The act allows the DEEP commissioner’s designee to act on his behalf with regard to the energy and utility statutes.

### § 3 — PURA CHAIRPERSON’S AUTONOMY AND PURA DECISION GUIDELINES

The act expands the PURA chairperson’s autonomy. Under prior law, the chairperson needed the DEEP commissioner’s approval when prescribing the duties of staff assigned to PURA in its various areas of responsibility. Under the act, 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.

By law, PURA’s decisions must be guided by DEEP’s statutory goals, the IRP’s goals, and the CES’s goals. The act 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 plans, strategy, and policies.

Under prior law, a PURA hearing panel had to ask the DEEP commissioner to appoint a hearing officer from the division to investigate a case for it. The act instead allows a panel of one or more PURA utility commissioners to assign hearing officers.

### § 4 — DIVISION OF ADJUDICATION

The act places the Division of Adjudication in PURA, rather than DEEP, and eliminates the prior law’s requirement that the division advise the DEEP commissioner.

### § 6 — REGULATION MAKING

The act eliminates the requirement in prior law that PURA consult with DEEP

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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 (OPM), to establish standards for cogeneration technologies and renewable fuel resources. In the last case, PURA must act in accordance with DEEP policies.

### § 7 — RIGHT OF ENTRY

Under prior law, the PURA directors and DEEP employees assigned to PURA could enter utilities' and electric suppliers' buildings at all reasonable times, and anyone who interfered with a director or employee in performing his or her duties was subject to a fine of up to \$200, imprisonment for up to six months, or both. The act modifies the right of entry to include all designees of the PURA utility commissioners, rather than DEEP employees.

### § 8 — CONSULTANTS

The act allows DEEP, in consultation with PURA and the Office of Consumer Counsel (OCC), to retain consultants to (1) provide expertise in areas in which its staff lacks expertise or (2) supplement staff expertise for proceedings before certain federal regulatory entities. These entities are the Federal Energy Regulatory Commission, the U.S. Department of Energy, the U.S. Nuclear Regulatory Commission, the U.S. Securities and Exchange Commission, the Federal Trade Commission, and the U.S. Department of Justice. Similarly, the act allows PURA, in consultation with OCC, to retain consultants for these purposes for proceedings before the Federal Communications Commission.

In both cases, the utilities affected by a proceeding that requires 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 \$2.5 million per calendar year for all proceedings, including appeals, unless PURA finds good cause for exceeding the limit. PURA must allow the utilities to recover these payments in their rates, if applicable.

EFFECTIVE DATE: July 1, 2013

### §§ 9, 10 — DEEP PARTICIPATION IN PURA PROCEEDINGS

Under prior law, the DEEP commissioner could be made a party to any PURA rate case arising out of an alleged need to raise funds to expand capital equipment and facilities. The act instead automatically makes the commissioner a party in all PURA proceedings, and allows him to participate in proceedings at his discretion.

### § 10 — RATEMAKING POLICIES

The law requires PURA to use new pricing principles and rate structures if it is in the public interest. The act specifies that DEEP determines the public interest in the IRP and CES. It also requires that PURA be guided by DEEP's statutory

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goals, the IRP, CES, and the conservation and load management plan.

By law, DEEP's actions must conform with, as far as possible, the state energy policy as described in statute. The act additionally requires DEEP to act, as far as possible, in conformity with state energy policies as described in the IRP and CES.

The act allows the Department of Economic and Community Development and the Siting Council to be made parties in any electric or gas company rate case, rather than just those based on the need to raise funds to expand capital equipment and facilities.

### § 11 — RATE DECOUPLING

The act restricts how PURA can decouple an electric or gas company's rates from its sales. Under prior law, as part of a rate case, PURA was required to order the company to use one or more of the following:

1. a mechanism that adjusts actual distribution revenues to allowed distribution revenues;
2. rate design changes that increase the amount of revenue recovered through fixed distribution charges; or
3. a sales adjustment clause, rate design changes that increase the revenue recovered through fixed distribution charges, or both.

Under the act, PURA must order an electric company to use the first approach for rate cases initiated on or after July 8, 2013 or pending cases for which a final decision has not been issued by this date. For gas companies, the act bars the decoupling mechanism from removing the incentive to support expanding gas use pursuant to the 2013 CES, such as a mechanism that decouples distribution revenue based on a use-per-customer basis.

In making its determination for gas and electric companies, PURA must consider the impact of decoupling on the company's return on equity and make necessary adjustments to it.

### §§ 12-14 — POWER PROCUREMENT

The act 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.

The law requires PURA's procurement manager, in consultation with the electric companies, to prepare a plan for procuring power for the standard service the companies provide to small- and medium-sized customers who have not chosen a competitive supplier. The act specifically allows the procurement manager to consult with the commissioner in developing the plan. It eliminates the requirement of prior law for the procurement manager to have quarterly meetings with the DEEP commissioner.

The act 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

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Technology Committee. The act allows PURA to submit the report electronically.

The act allows PURA to recover all of its reasonable costs in 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 bypassable component of their electric rates, as determined by PURA.

### §§ 15, 16 — ELECTRIC AND GAS CONSERVATION PLANS

#### *Combined Conservation Plan*

The act requires the electric and gas companies to develop a combined conservation plan, as is current practice, rather than requiring each company to develop a separate plan. The combined plan must be developed by November 1, 2015 and every three years thereafter. Prior law required the companies to develop annual plans (implicitly in the case of electric companies), with the next plan due October 1, 2013; in fact, the current plan runs until 2015.

Prior law required the ECMB to help the companies develop and implement their individual plans; the act requires ECMB to help them to do this for the combined plan. It requires all of the companies to review the programs in the plan jointly, rather than each company reviewing its own plan.

The act requires that the combined plan contain all of the information currently contained in the electric companies' conservation plans. It extends to proposed gas conservation programs, the evaluation, measurement, and verification measures that previously only applied to electric programs. It allows the plan to include water, as well as energy, conservation programs. It requires the plan to include a detailed budget sufficient to fund all energy efficiency that is cost-effective or lower cost than acquiring equivalent supply. DEEP must review and approve the budget. The act requires the combined plan to evaluate and select all supply and conservation and load management options within an integrated supply and demand planning framework, a provision that previously only applied to the gas companies' plans.

Under prior law, ECMB accepted, modified, or rejected the individual programs in gas plans before submitting them to PURA, which then approved each company's plan. In the case of the electric company plans, ECMB approved or rejected the individual programs before submitting the plans to DEEP for its approval. The act requires ECMB to accept, modify, or reject the programs in the combined plan and approve the plan as a whole (in addition to its programs) before submitting it to the DEEP commissioner for his approval.

The act allows DEEP to hold a public meeting, rather than a hearing, when acting on the combined plan. Under prior law, PURA could hold a hearing when acting on the gas plans and DEEP could hold a hearing when acting on the electric company plans. The act extends this provision to PURA's review of the combined plan.

By law, the cost-effectiveness of the programs must be reviewed annually, or otherwise as practicable. The act specifies that this review must compare all energy savings to program costs. Under prior law, PURA conducted this review

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for gas programs (the law was silent on who reviewed electric programs). The act requires DEEP to review the cost-effectiveness of the programs in the combined plan. Under prior law, a program that failed the cost-effectiveness test had to be modified or terminated; the act allows such programs to continue in their current form if they are integral to other programs that are cost-effective in combination.

The act requires each electric company to apply to ECMB for reimbursement of expenditures it makes under the plan.

### *Funding Conservation Programs*

Currently, electric conservation programs are primarily funded by a 0.3 cents per kilowatt-hour (kwh) charge on electric bills. Under the act, if the conservation budget for electric companies in the DEEP-approved combined plan exceeds the revenues collected by this charge, PURA must ensure that the additional revenues needed to fund the budget are provided through a fully reconciling conservation adjustment mechanism within 60 days of the plan's approval. This additional charge can be no more than 0.3 cents per kwh sold to each electric customer during any three years of any plan.

Currently, gas conservation programs are funded by an adjustment mechanism on gas bills. The act requires that PURA ensure that the revenues required to fund the conservation budget for gas companies are provided through a fully reconciling adjustment mechanism for each gas company of not more than the equivalent of 4.6 cents per hundred cubic feet during the three years of any plan (approximately twice the current charge on gas bills).

### *Energy Conservation Management Board*

The act expands the ECMB by adding a representative of a statewide farm association. It allows the attorney general to name a designee to serve on the board. Under prior law, the DEEP commissioner chaired the ECMB. The act instead requires ECMB to elect its chairperson from among its voting members (its utility members are non-voting).

By law, ECMB must report annually to the Energy and Technology and Environment committees on the Energy Efficiency Fund. The act eliminates the requirement that the report describe activities done jointly or in collaboration with the Clean Energy Fund.

Under prior law, ECMB had to report every five years to the Energy and Technology Committee on the program and activities of the Energy Efficiency Fund. The act instead specifies that this report must cover the programs and activities contained in the combined electric and gas conservation plan.

By law, there is a joint committee of ECMB and the CEFIA board. The act requires the joint committee to examine opportunities to provide financing to increase the benefits of programs funded by the combined conservation plan.

By law, ECMB must periodically review program contractors to determine whether they are qualified to conduct work related to the programs. The act additionally requires ECMB to ensure that a fair and equitable process is followed in selecting contractors. It establishes a rebuttable presumption that contractors are considered technically qualified if certified by the Building Performance

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Institute or another organization selected by the commissioner.

### §§ 19, 20, 23, 26, & 33 — CONNECTICUT ENERGY ADVISORY BOARD

The act eliminates most of the responsibilities of the Connecticut Energy Advisory Board (CEAB). These include:

1. reporting to the legislature on the status of DEEP-administered programs;
2. reviewing, within available appropriations, requests from the legislature; and
3. consulting with the DEEP commissioner on the CES and IRP.

The act also (1) eliminates CEAB's authority to retain consultants for these responsibilities, (2) removes CEAB's chairperson as a member of the Home Heating Oil Planning Council, and (3) eliminates the sunset review of CEAB.

### §§ 20, 21 — INTEGRATED RESOURCES PLAN DEVELOPMENT

The law requires DEEP, in consultation with the electric companies, to review the state's energy and capacity resources and develop an IRP for procuring energy resources. The act eliminates the requirements of prior law that (1) the PURA procurement manager, in consultation with various parties, develop a procurement plan as part of the IRP process and (2) the manager hold public hearings on this plan.

The act also eliminates prior 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 act 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 act applies much of the prior law's notice requirement for the PURA public hearings to the public and technical 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 that DEEP's Bureau of Energy recommend plan modifications after the hearing. By law, the commissioner must consider all comments on the proposed plan; the act specifically requires that he do so before approving the final plan. The act allows him to (1) correct any clerical errors in the IRP without following its required procedures and (2) file the biannual progress report on the IRP electronically with the Energy and Technology and Environment committees. It requires that the next report be filed within two years after the adoption of the IRP, rather than by March 1, 2014.

The law allows DEEP to recover all costs associated with developing the IRP. The act specifies that these costs must be reasonable. It also requires the electric companies to recover their reasonable costs associated with developing the plan

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through a reconciling non-bypassable component of their rates, as determined by PURA.

The act 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.

By law, PURA must oversee implementation of the IRP. The act additionally requires that it oversee implementation of the standard service procurement plan.

The act eliminates the requirement that PURA decisions be based on the record of the proceeding, although this requirement remains in place under the Uniform Administrative Procedure Act regarding contested cases, such as rate cases.

### § 21 — INTEGRATED RESOURCES PLAN IMPLEMENTATION

By law, PURA must issue a request for proposals if the IRP specifies constructing a generating facility. The act 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.

### § 23 — COMPREHENSIVE ENERGY STRATEGY

The law requires the DEEP commissioner to prepare a comprehensive energy plan every three years. The act (1) renames the plan the comprehensive energy strategy, (2) extends the deadline for the next CES from July 1, 2015 to October 1, 2016, and (3) eliminates a requirement that the commissioner consult with CEAB in preparing the plan. In addition to the many factors the CES must consider by law, the act requires it to incorporate the Energy Assurance Plan developed for the state under the 2009 federal American Recovery and Reinvestment Act, 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 prior law, if DEEP found that expansion was in the public interest, it had to develop a plan to increase gas's availability and use for transportation purposes. The act expands this requirement to cover all types of gas uses if DEEP finds that expansion is in the public interest.

The act eliminates the requirement of prior law 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 act 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 act applies much of the prior law's

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public hearing notice requirement to the notice requirement for these 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.

Prior law required PURA to comment on the plan's ratepayer impact during the proposed plan's comment period. The act 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 act 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 act.

### § 25 — CONDEMNATION OF POWER PLANTS

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

### §§ 27, 28 — ENERGY EFFICIENCY IN STATE BUILDINGS

The act allows DEEP to electronically file its reports on (1) its plan to save energy in state buildings and (2) energy audits in these buildings and related activities. Under prior law, the latter had to list state agencies that failed to cooperate with DEEP and the Department of Administrative Services in implementing the improvements required by OPM arising from the audits. The act instead refers to improvements required by DEEP in consultation with OPM.

The act eliminates the requirement that CEAB annually measure the success in implementing DEEP's plan.

### § 29 — LOW INTEREST LOAN PROGRAM

The act modifies eligibility for a Department of Economic and Community Development low interest energy efficiency loan program administered by the Connecticut Housing Investment Fund. With regard to the part of the program funded by bonds authorized before July 1, 1992, the act:

1. makes one- to four-unit residential buildings built between January 1, 1980 and December 31, 1995 eligible for the program (older buildings are already eligible) and
2. decreases, from 200% to 110% of area median income, the maximum income a household can have and be eligible for the program.

For buildings with more than four units, it increases the (1) per unit loan cap from \$2,000 to \$3,500 and (2) per building cap from \$60,000 to \$100,000.

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### § 30 — REPLACEMENT HEATING EQUIPMENT PROGRAM

The act makes ductless heat pumps eligible under DEEP's residential heating equipment financing program.

### § 31 — HOME ENERGY SOLUTIONS PROGRAM

The act eliminates the \$99 cap on fees, charges, copays, and other terms for the Home Energy Solutions audit program, instead requiring ECMB to set a cap for each type of customer (those who heat with electricity, gas, or other heating fuels). It eliminates the annual \$500,000 cap on the subsidy for audits for customers who do not heat with electricity or gas.

### § 34 — MICROGRIDS

By law DEEP must establish a microgrid grant and loan pilot program to support onsite electricity generation at "critical facilities" (e.g., hospitals, police and fire stations, and municipal commercial areas). The act expands critical facilities to include production and transmission facilities of Federal Communication Commission-licensed TV and radio stations.

By law, a "microgrid" is a group of interconnected electricity users and generators that (1) is within clearly defined boundaries that acts as a single controllable entity in respect to the larger grid and (2) can operate as either a part of the grid or independent of it.

### § 35 — VIRTUAL NET METERING

The act broadens eligibility for "virtual net metering," expands the maximum size of the generating unit that can take advantage of virtual net metering, and potentially increases the value of the electric bill credit that participating customers receive.

By law, an electric company customer who owns a class I renewable resource (e.g., a photovoltaic system) receives a net metering credit on his or her electric bill when the resource produces more power than the customer uses in a billing period. In effect, the customer's meter runs backwards when the resource generates surplus power. The credit, which is tied to the electric company's retail rate, rolls over from month to month. At the end of each 12 months, if the customer still has a credit, he or she is paid for it at the company's wholesale rate.

By law, municipalities are eligible for virtual net metering, which allows them to share the billing credit among their electric accounts. For example, a town could install a photovoltaic system on the roof of a school and share the billing credits the system produces with a fire station. This increases the likelihood that the customer will fully utilize its credits (paid at the retail rate) during a year, and therefore not have any remaining credits at the end of the year, for which it would be paid at the wholesale rate.

The act expands eligibility for virtual net metering in several ways. It opens the option to state agencies and agricultural customers and increases the

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maximum size of the renewable resource from two to three megawatts. For municipal and state agency customers, it allows (1) virtual net metering for class III resources, such as cogeneration, as well as class I resources and (2) customers to lease the renewable resource or enter into a long-term contract for it.

By law, municipalities can share the billing credit with no more than five other municipal accounts. The act extends this provision to state accounts. It allows municipal or state accounts to share the credits with up to five additional non-state or municipal critical facilities connected to a microgrid. It allows agricultural customers to share their credits with up to ten accounts that (1) use electricity for agriculture, (2) are municipalities, or (3) are non-commercial critical facilities.

Under prior law, the credit for virtual net metering customers went against the customer's Generation Service Charge (GSC), i.e., the part of the electric bill that covers the cost of power. (For other net metering customers, the credit goes against the customer's entire bill.) The act applies the virtual net metering credit against the GSC and a declining percentage of the distribution and transmission charges, thereby potentially increasing its value. The percentage is 80% until July 1, 2014, 60% for July 2, 2014 through July 1, 2015, and 40% starting July 2, 2015. The act requires each electric company to report annually by January 1 to PURA, rather than DEEP, on the program's costs.

Prior law required DEEP, by February 1, 2012, to develop administrative processes and specifications for the program, including a statewide cap of \$1 million per year on the cost of the virtual net metering. The act requires PURA, rather than DEEP, to do this by October 1, 2013 and raises the cap to \$10 million per year. Of this amount, no more than 40% can go to municipal, state, and agricultural customers.

The act allows any customer that participates in virtual net metering to aggregate the electric meters that are billed to the customer that hosts the generation facility.

EFFECTIVE DATE: July 1, 2013

### §§ 36, 37 — SUBMETERING

The act broadens the places where electric submeters can be installed. By law, electric companies must permit submeters at (1) campgrounds, (2) slips at marinas, and (3) other locations approved by PURA. The act additionally requires the companies to permit submetering at commercial, industrial, multi-family residential, or multiuse buildings where the electric power or thermal energy is provided by a Class I renewable energy source (e.g., photovoltaic systems or fuel cells) or a combined heat and power (cogeneration) system. It allows PURA to permit submetering at other locations when this promotes the state's energy goals, as described in the CES, while protecting consumers against termination of residential utility service or other related issues. It requires PURA to adopt regulations to protect submetered customers against termination of service or related issues.

The act requires PURA to develop an application and approval process that allows for the reasonable implementation of submetering at allowed facilities,

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while protecting consumers against termination of residential utility or other related issues. Each entity PURA approves to submeter must provide electricity to an allowed facility at a rate no greater than the rate charged to that customer class for the service territory where the facility is located. The act repeals a provision that prohibits electric companies from charging campgrounds more than their residential rates. Such entities may not charge a submetered account for usage for any common areas of a commercial, industrial, or multi-family residential building or other use not solely for the use of the account.

The act requires entities that submeter to comply with the utility laws and PURA orders and regulations. It subjects those that do not comply to a civil penalty of up to \$10,000 per violation in most cases.

EFFECTIVE DATE: July 1, 2013

### § 38 — DEFINITIONS OF ELECTRIC AND GAS COMPANIES

Under prior law, with limited exceptions, any entity that distributes electricity on wires that run along or across a highway or street was considered an electric company subject to PURA jurisdiction. The act excludes governmental entities that PURA authorizes to distribute electricity across streets or highways (see § 39) and entities that PURA approves to submeter from the definition of electric companies. It also exempts the latter entities from the definition of gas companies subject to PURA jurisdiction.

EFFECTIVE DATE: July 1, 2013

### § 39 — MUNICIPAL MICROGRIDS

The act requires PURA to authorize any municipality, state, or federal entity that owns, leases, or operates any Class I or III renewable resource (e.g., a combined heat and power system) or any other generation resource under five megawatts, to independently distribute electricity generated from any such resource across a public highway or street if it is connected to a municipal microgrid. It requires the entity to work with the local electric company to ensure that the interconnection of the microgrid to the utility grid is in accordance with PURA's interconnection standards.

EFFECTIVE DATE: July 1, 2013

### § 40 — ENERGY IMPROVEMENT DISTRICTS AND MICROGRIDS

The act allows energy improvement district boards to own, lease, or finance microgrids. By law, a municipality may, by a vote of its legislative body, establish such districts, which are governed by boards. Among other things, districts can develop and operate small power plants and certain conservation programs and issue revenue bonds.

EFFECTIVE DATE: July 1, 2013

### § 41 — BENCHMARKING STATE BUILDINGS' ENERGY USE

The act allows DEEP, by January 1, 2014, to benchmark the energy and water

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consumption for all nonresidential buildings owned or operated by the state or any state agency with a gross floor area of 10,000 square feet or more, using the U.S. Environmental Protection Agency's Energy Star Portfolio Manager. By April 1, 2014, DEEP must make this information public for all such buildings.

By April 1, 2014, DEEP may benchmark such consumption for all residential buildings owned or operated by the state or any state agency with a gross floor area of 10,000 square feet or more. By July 1, 2014, DEEP must make public the portfolio manager benchmarking information for all such buildings.

### §§ 42, 43 — COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM

By law, under this program, CEFIA can enter into an agreement with a commercial property owner in participating municipalities to finance energy efficiency or renewable energy improvements. The improvements are repaid by an assessment on the property, which is backed by a lien on the property.

Under prior law, the municipality had to place a notice on the land records indicating that the assessment and lien are anticipated once the improvements are completed. The act alternatively allows CEFIA to direct the municipality to levy the benefit assessment and file the lien on the land records based on the estimated costs of the improvements before or once they are completed.

Under the act, if assessments are paid in installments and an installment is late, the lien may be foreclosed to the extent of any unpaid installments and related penalties, interest, and fees. If the lien is foreclosed, the lien survives the foreclosure judgment to the extent of any unpaid installments secured by the lien that were not the subject of the judgment.

### § 44 — WIND FACILITY REGULATIONS

The act eliminates the requirement that the Siting Council's regulations on siting wind turbines include different requirements for different size projects.

### § 45 — STATE BUILDING CODE

By law, the state building code must promote and ensure that buildings and structures are designed and constructed in a way that conserves energy and, wherever practicable, facilitates the use of renewable energy. The act additionally requires that any code adopted after July 8, 2013 include provisions for electric circuits that can support electric vehicle charging in a new residential garage.

### § 46 — SULFUR CONTENT OF HEATING OIL

Under prior law, the maximum sulfur content of heating oil was 0.3% (3,000 parts per million or ppm) by weight, going down to 0.15% and 0.125% when Massachusetts, New York, and Rhode Island all adopted these standards. Also under prior law, the maximum would go down to 50 ppm between July 1, 2011 and June 30, 2014 and 15 ppm thereafter if Massachusetts, New York, and Rhode Island adopted comparable standards (this has not yet happened). The act instead

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reduces the limit to 500 ppm from July 1, 2014 until June 30, 2018 and 15 ppm thereafter, regardless of whether the neighboring states adopt these standards. The act also eliminates a requirement that the sulfur standard for off-road diesel fuel drop from 0.3% to 500 ppm once the other three states adopted this limit.

### § 47 — WATER REGULATION STUDY

The act requires PURA to study the financial capacity and system viability of small community water companies that are not covered by the water supply plans required by law. The study must at least address the potential (1) factors affecting the costs to maintain and operate these systems safely and effectively and (2) benefits of creating a financial assistance account to help them defray the costs of essential infrastructure improvements. PURA must conduct the study in consultation with the Department of Public Health (DPH) and the Water Planning Council (an inter-agency group that includes PURA, DEEP, DPH, and OPM).

The act allows PURA, in consultation with DPH and the council, to retain a consultant to help develop the study. The consultant's reasonable and proper expenses, to a maximum of \$49,000, must be borne by water companies under PURA's jurisdiction and paid when and how PURA directs. PURA must allow the companies to recover the costs in rates.

The act requires PURA to report its findings to the Energy and Technology, Public Health, and Planning and Development committees by February 1, 2014.

### § 48 — AQUIFER PROTECTION ZONE

The law requires certain municipalities to develop regulations limiting the types of developments that can occur above aquifers. By November 1, 2013, the act requires the DEEP commissioner, at the request of a municipality and in consultation with DPH, to examine the impact of the municipality's regulations on economic development in the municipality. The examination must at least include the potential impact caused by future expansions of an aquifer protection area if DEEP issues a water diversion permit or a general permit for minor water activities.

For municipalities with existing wells that (1) are owned by a water company that serves at least 1,000 people and (2) also serve people in other municipalities, the DEEP commissioner must recommend regulatory changes to cover the host municipality's costs associated with enforcing the aquifer protection regulations and any potential economic development losses associated with an expansion of the aquifer protection area. By February 1, 2014, the commissioner must report the examination findings and any recommended regulatory changes to the Energy and Technology Committee.

### § 49 — WATER CONSERVATION AND RATES

By law, PURA must authorize water company rates that promote conservation. The act requires PURA to consider consumers who are low water users (including those who have already implemented conservation measures) in

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adopting these rates, in addition to the factors PURA already must consider.

The act requires the rates to prioritize demand projections that recognize the effects of conservation and account for declining rates of water consumption in order to minimize the use of a revenue adjustment mechanism (which is authorized by PA 13-78) following a rate case.

### §§ 50, 51 — GAS SYSTEM EXPANSIONS

#### *Expansion Plan*

The act requires the gas companies, by June 15, 2013, to jointly submit a natural gas expansion plan to DEEP and PURA. The plan must be designed to provide gas service to customers currently on and off distribution mains, consistent with the goals of the 2013 CES.

The plan must include steps to:

1. expand the gas network,
2. increase cost-effective customer conversions,
3. provide access to gas for industrial facilities to the greatest extent possible,
4. reduce the cost of adding new customers,
5. ensure the reliability of the gas supply and its expansion in time to meet demand, and
6. decrease risk to existing gas customers by adjusting the pace of conversions to reflect changes in gas prices.

The plan must include:

1. a 10-year customer conversion plan and schedule;
2. an analysis for meeting customer conversion goals as specified in the CES;
3. outreach and marketing plans for each customer segment;
4. steps the companies will take to reduce conversion costs;
5. strategies for procuring (pipeline) capacity and leveraging outside investment to finance equipment replacement and main extensions for new customers;
6. a plan to synchronize infrastructure expansion with steps to reduce methane leaks from existing lines;
7. measures to encourage customers targeted for conversion to install efficient equipment and improve their building's energy efficiency when they switch fuels, such as by providing them information about the Home Energy Audit program and, to the extent possible, the audit application form; and
8. proposals for rate design changes, including a description of the rate impacts of these changes and specific cost recovery mechanisms for each customer segment.

Once the plan is filed, PURA can approve new rate mechanisms to recover its costs for an individual company. It must do so in a contested proceeding (i.e., one in which the OCC can participate and whose decision can be appealed to the courts).

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### *Plan Approval*

The act requires the DEEP commissioner to review the plan and make a preliminary determination as to whether it is consistent with the goals of the CES within 30 days of receiving the plan. If he determines that the plan is consistent with these goals, PURA must approve or modify the plan. PURA must do this in a contested proceeding, with a public hearing, within 120 days after the plan is submitted to PURA.

### *Cost Recovery*

Under current practice, when a gas company seeks to expand its distribution system, it determines whether the projected new distribution revenues will equal or exceed the cost of the expansion over a specified period (15 years for Yankee Gas Services and 20 years for Connecticut Natural Gas and Southern Connecticut Gas). If the expansion will pay for itself in this period, all gas ratepayers pay for it in rates. If it does not, the benefitted customers must pay for the shortfall. The act instead requires PURA to use a 25-year horizon to make this allocation in implementing the expansion plan. As part of its analysis, PURA must develop a methodology to reasonably account for revenues that would be collected from new customers who signal that they intend to switch to gas over a period of at least three years within a common geographic location.

The act also requires PURA to establish a:

1. new rate for customers added pursuant to the plan to offset the incremental costs of implementing the plan and
2. rate mechanism for the companies to recover their prudent investments under the approved plan in a timely manner outside of a rate proceeding, that must consider the additional revenues they will generate by implementing the plan.

The companies provide gas on a nonfirm (interruptible) basis to some of their nonresidential customers and receive a credit for providing this service. The act requires PURA to assign at least half of the nonfirm margin credit to offset the rate base of the gas companies, the costs of which are recovered from ratepayers. It requires PURA to assign the lesser of (1) half of this credit or (2) \$15 million annually from the credit for the companies in the aggregate to offset expansion costs. These include the costs of adding new state, municipal, commercial, and industrial customers when this provides societal benefits. These benefits include increased or retained employment, local economic development, environmental benefits, and supporting transit-oriented development goals. PURA must allocate the latter amount among the companies in proportion to their revenues and the capacity for which they contract.

### *Report*

The act requires the gas companies, by June 15 annually from 2014 through 2023, to jointly report to DEEP and PURA on the status and progress in implementing the plan. The report must:

1. identify the number of new customers added over the previous year,

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2. compare the actual and estimated expenditures for that year,
3. forecast new customers and expenditures for the coming year, and
4. provide other information that DEEP or PURA considers appropriate.

### § 52 — FUEL SWITCHING AND EFFICIENCY PILOT PROGRAM

The act requires DEEP, CEFIA, and ECMB to establish a pilot program in at least four municipalities to:

1. ensure that potential customers targeted for conversion to gas are given incentives to install efficient equipment and improve the efficiency of building envelopes (e.g., windows) at the time of conversion,
2. ensure that customers who cannot cost-effectively convert to gas are given incentives to install efficient equipment and improve the efficiency of the building envelope, and
3. provide access to low-cost financing for gas conversion or efficiency upgrades.

The agencies must act in coordination with the electric and gas companies and the program must be consistent with the policy goals of the CES.

The program must use a community-based marketing campaign and a competitive solicitation for volume pricing on high efficiency heating equipment and insulation.

The program ends on December 31, 2014. Thereafter, DEEP may evaluate the results of the program and determine whether to reestablish the pilot program or establish a permanent program.

### § 53 — FUNDING FOR ALTERNATIVE VEHICLES

The act allows DEEP, from non-appropriated resources, to provide grants or rebates to municipalities, academic institutions, and other entities to buy or install alternative fuel vehicles, alternative vehicle fueling equipment, and energy efficient devices.

### § 55 — FUNDING FOR THERMAL AND ELECTRIC ENERGY STORAGE

The act requires CEFIA to provide grants and other forms of financial assistance for thermal energy storage and electric storage.

### §§ 56, 57 — WEATHERIZATION STANDARDS AND EFFICIENCY

The act requires DEEP, by July 1, 2014, in consultation with ECMB and the Department of Housing, to develop weatherization standards and procedures for buildings participating in the Rental Assistance Program, including considering expedited scheduling of an energy efficiency audit. When a tenant secures or renews a lease under the rental assistance program, once the standards and procedures become effective, the landlord must (1) schedule an energy audit under the Home Energy Solutions program or a program deemed comparable by the DEEP commissioner and (2) install free weatherization measures under the program. The act also requires, starting July 1, 2013, Operation Fuel, Incorporated

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and the agencies administering state fuel assistance program funds to provide their clients (1) information regarding the Home Energy Solutions audit program and (2) an application form for the audit.

### § 58 — ON-BILL FINANCING PROGRAM

The act requires ECMB and CEFIA, in consultation with the electric and gas companies, to establish a program by April 1, 2014 to finance residential energy efficiency and renewable energy measures using private capital. The loans must be repaid on the electric or gas bills of participating customers.

#### *Program Features*

The program must:

1. establish a process for determining which measures qualify for it;
2. prioritize measures based on their cost-effectiveness;
3. reduce peak electricity demand;
4. help participating customers obtain incentives, other cost savings, and financing for the measures, including gas heating equipment that is Energy Star rated as well as oil and propane equipment that is at least 84% efficient;
5. identify knowledgeable contractors to install the measures and ensure that they are installed successfully;
6. finance the measures so that the repayment term does not exceed the improvement's average expected life; and
7. provide that the repayment, added to the customer's utility bill after installation, is no more than the original utility bill.

Under the program, if the customer does not repay his or her loan, his or her utility service can be shut off. This provision does not apply if the customer has a pending complaint, investigation, hearing, or appeal challenging the accuracy, terms, or related issues regarding the loan. The loan repayment is treated like a utility bill for purposes of the laws that limit when and under what circumstances a utility can terminate service. In addition, the program must:

1. establish program guidelines to address the ramifications of on-bill repayment and the risks of service disconnections for low-income and other hardship customers;
2. require that the billing and collection services be available whether or not the energy or fuel the utility delivers is the customer's primary energy source; and
3. require that the repayment obligation must be assigned to subsequent property owners once ECMB and CEFIA develop guidelines regarding timely notice to the new owner, but the obligation does not apply when a tenant or receiver of rents becomes liable for utility bills under existing laws.

These three guidelines are subject to PURA review and approval. The review, an uncontested proceeding, must begin when the guidelines are filed with PURA and is considered complete no more than 90 days after the filing.

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Repayments for improvements connected with heating must be counted as heating expenses for (1) the Connecticut Energy Assistance Program and (2) utility programs that match customer payments in reducing the customer's arrearage.

### § 59 — COMBINED HEAT AND POWER PROGRAM

The act requires DEEP to establish a pilot program to promote large combined heat and power (cogeneration) systems by limiting the demand charge electric companies impose on them. Electric companies impose this charge on their larger customers to help recover their infrastructure costs. Under a provision known as the ratchet, an increase in demand increases the demand charge for an extended period. For customers with cogeneration systems, the increase in demand could be caused by an outage of the system.

#### *Eligible Systems*

To be eligible, a system must:

1. provide electricity and heat to a commercial, industrial or residential facility;
2. have a nameplate capacity between 500 and 5,000 kilowatts; and
3. have been placed in service between January 1, 2012 and January 1, 2015.

Systems that are eligible for assistance under two existing programs are ineligible for the pilot program.

#### *Project Selection and Program Benefits*

The act requires DEEP to solicit applications from qualifying projects and select program participants on a first-come, first-served basis. DEEP can select as many eligible projects as it wishes, subject to a 20 megawatt limit on the total capacity for the pilot program. Thus, the program can have a maximum of between four and 40 participants, depending on their size.

Program participants are not required to pay the charge associated with the ratchet if the project experiences an outage. If the project experiences an outage longer than three hours, the demand charge must be based on daily demand pricing pro-rated from standard monthly rates. No demand charge can be imposed for shorter outages.

Participants can receive this benefit for 10 years from the time the project goes into service. They can also aggregate all electric meters that are on the same premises as the project and are billable to the customer.

If a project does not go into operation within one year of selection, its share of the 20-megawatt limit must be offered to at least one other project that participated in the selection process.

#### *Data Collection and Analysis*

Program participants must give PURA and the DEEP commissioner all system performance and supplemental utility data PURA reasonably considers necessary to measure the program's performance. The data must include the following, in

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15-minute intervals:

1. the project's net electric production;
2. the project's net thermal production (e.g., steam) measured in millions of British thermal units (mmBTUs);
3. fuel the project consumed in mmBTUs; and
4. supplemental electricity received from the electric company, measured in kilowatt-hours and kilovolt-amperes.

The data also must include (1) all downtimes for the project, including the time of day of the downtime, its duration, and the reasons for it and (2) any other data PURA deems appropriate. The data must be provided on a PURA-approved form.

Using this data, PURA must analyze (1) the projects' system performance; (2) the demand charges paid, as opposed to the standard demand charges for customers who have distributed generation (cogeneration is a type of distributed generation); and (3) the viability of establishing an as-used daily demand tariff for all distributed generation cogeneration systems.

### *Report*

Ninety days after three years' worth of data have been received, the DEEP commissioner must report to the Energy and Technology Committee, recommending whether to continue, expand, modify, or eliminate the program.

## § 60 — UTILITY TREE-TRIMMING

The act expands the ability of electric and telecommunication utilities to trim trees and other vegetation near their lines.

Under prior law, electric and telephone companies had to seek the consent of property owners when they cut or trimmed trees overhanging highways or public grounds. (The strip between a sidewalk and a street is typically part of the highway right of way.) If the owner did not consent, the company could proceed with the approval of PURA or the municipal tree warden, following notice and an opportunity for a hearing.

The act instead allows electric and telecommunications companies, with somewhat different notice and appeals procedures, to perform vegetation management in the "utility protection zone" to secure the reliability of utility services by protecting wires and other utility infrastructure from trees, shrubs, and other vegetation in the zone. Under the act, the zone is the area extending eight feet horizontally from the outermost line and vertically from the ground to the sky. "Vegetation management" includes pruning and removing vegetation that jeopardizes utility infrastructure, while retaining compatible vegetation that does not. Until DEEP issues standards for identifying compatible trees and shrubs, the compatible trees and shrubs are those listed in the 2012 final report of the State Vegetation Management Task Force.

### *Notice Requirements and Appeals*

Under the act, before a utility can prune or remove any tree or shrub (1) in the

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zone or (2) on or hanging over any highway or public ground, it generally must notify the abutting property owner. The notice can be (1) delivered by first class mail, (2) deposited at the location of this property, or (3) delivered orally and in writing. Under the first two options, the notice must be provided at least 15 business days before starting any pruning or removal. Under the last option, pruning or removal can take place any time after the notice is provided, so long as the owner has (1) not filed a written objection within 10 business days or (2) waived, in writing, the right to object.

The notice must indicate that (1) the property owner can object to pruning or removal in writing with the utility and either the municipal tree warden or the Department of Transportation (DOT), as appropriate, within 10 business days after the notice is delivered and (2) the objection may include a request for consultation with the tree warden or DOT, as appropriate. While the act does not specify this, it appears that DOT would be involved for pruning or removal along state highways. If the owner does not object, the utility can proceed with the pruning or removal.

If the property owner objects, the tree warden or DOT, as appropriate, must issue a written decision within 10 business days after the objection is filed. This decision may not be issued before a consultation with the property owner if a consultation has been requested.

The property owner or the utility may appeal the tree warden's decision to PURA within 10 business days after the decision. PURA must (1) hold a hearing within 60 business days of receiving a written appeal of the tree warden's decision and (2) provide notice of the hearing to the property owner, the tree warden, and the utility. PURA may authorize the pruning or removal of any tree or shrub that is the subject of the hearing if it finds that public convenience and necessity require it.

When an objection has been filed, no tree or shrub subject to the objection may be pruned or removed until PURA or DOT has reached a final decision.

### *Cases When Notice Is Not Required*

A utility is not required to provide notice if the tree warden or DOT, as appropriate, gives the utility written authorization to prune or remove a hazardous tree (1) within the utility protection zone or (2) on or overhanging any public highway or public ground. A "hazardous tree" is all or part of a tree that is (1) dead; (2) extensively decayed; or (3) structurally weak and that would endanger utility infrastructure, facilities, or equipment if it fell. A utility is also not required to provide notice, or obtain a permit required under existing law, to prune or remove a tree, as necessary, if any part of it directly contacts a live electric line or has visible signs of burning. None of these provisions require a utility to prune or remove a tree.

EFFECTIVE DATE: July 1, 2013

§ 61 — SITING COUNCIL APPROVAL OF TELECOMMUNICATIONS TOWERS

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By law, a Siting Council certificate is required to build or modify a variety of energy and telecommunications facilities. Generally, the council can grant a certificate only if it finds that there is a public need for the facility and that this need outweighs the environmental harm the facility may cause.

The act establishes a presumption, in the case of cell phone tower certificate applications, that there is a public need for personal wireless (e.g., cell phone) services. It limits the council's consideration of need to the specific need for the proposed tower to provide these services.

By law, the council must consider a proposed facility's environmental and public health impacts in determining whether to grant a certificate. For proposals involving new ground mounted cellphone towers to be installed on land owned by a water company, the act requires the council to consult with DPH to consider potential public health impacts to public drinking water supplies as part of this review.

By law, the council can deny an application for a cell phone or cable TV tower for several reasons. The act additionally allows the council, in the case of a proposed tower owned or operated by the state, to deny an application if no public safety concerns require that it be constructed in the proposed location.

EFFECTIVE DATE: July 1, 2013

### § 62 — TELECOMMUNICATIONS TOWERS IN WATERSHEDS

By law, (1) a private or public water utility needs a DPH permit to lease or change the use of any of its watershed lands and (2) there are restrictions on the circumstances under which DPH can issue these permits.

The act allows the DPH commissioner to grant a permit to allow for telecommunications towers, ancillary equipment, or related access drives and utilities on water utility land used to provide cellphone and other personal wireless services under certain circumstances. These are that (1) the lease or change of use will not harm the purity and quality of the public water supply and (2) any use restrictions she imposes as a permit condition can be enforced against subsequent owners, lessees, and assignees.

The act requires the permit application for such facilities to at least (1) document the extent that the telecommunications service provider considered other sites and found them unsuitable and (2) include a finding by the commissioner that the lease or change of use will not significantly harm the public drinking water supply purity or adequacy. A permit is subject to any conditions or restrictions the commissioner considers necessary to maintain the water supply's purity or adequacy.

EFFECTIVE DATE: July 1, 2013

### § 63 — MIX OF GENERATION SOURCES USED BY SUPPLIERS

By law, PURA must maintain a database of information regarding electric companies and competitive suppliers. By law, the database must include information on the environmental characteristics of various types of generation. PA 13-5 eliminated the requirement that the database include the percentage of

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electric output for each company and supplier derived from each energy source category. This act reinstates this requirement.

### § 64 — TIME OF USE RATES FOR ELECTRIC VEHICLE CHARGING STATIONS

The act requires PURA, with regard to (1) electric companies and (2) municipal electric utilities that have sales of over 500 million kilowatt-hours annually, to determine within one year whether it is appropriate to implement “time of day rates” for electric vehicle charging stations that do not charge people to charge their vehicles. Such rates reflect the cost to the utility of providing power for electric vehicles, but do not include demand charges.

### § 65 — TYING ELECTRIC VEHICLE AND CHARGING STATIONS

The act prohibits vehicle manufacturers or distributors from requiring a dealer to purchase goods or services, including vehicle battery charging stations, from a vendor chosen by the manufacturer or distributor if substantially similar items of like appearance, function, and quality are available from other sources. The provision applies regardless of any franchise or other agreement between a manufacturer or distributor and a dealer. But it does not allow a dealer to (1) impair or eliminate the manufacturer’s or distributor’s intellectual property rights or (2) erect or maintain signs that do not conform to the intellectual property usage guidelines of the manufacturer or distributor. PA 13-247 repeals this provision.

### § 66 — ELECTRIC COMPANY RATE RECOVERY

The law allows an electric company to recover costs it prudently incurs under various statutes through (1) its rates, (2) the energy adjustment clause, or (3) the federally mandated congestion charge on electric bills. PURA determines the appropriate cost-recovery mechanism. The act additionally allows a company that incurs costs under the net metering (including virtual net metering) and submetering laws to recover them through these three mechanisms.

Under prior law, if an electric company earned a rate of return on its equity (roughly, its profit rate) that was below its authorized rate for six consecutive months due to decreased energy use arising from the above statutes, it was entitled to recover the lost earnings under the decoupling provision described above. The act instead entitles the company to recover revenues lost as a result of these statutes (including those newly added, such as net metering) under the three mechanisms described above, whether or not its rate of return is affected.

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