



House Bill No. 7036

Public Act No. 17-144

AN ACT PROMOTING THE USE OF FUEL CELLS FOR ELECTRIC DISTRIBUTION SYSTEM BENEFITS AND RELIABILITY AND AMENDING VARIOUS ENERGY-RELATED PROGRAMS AND REQUIREMENTS.

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

Section 1. (NEW) (*Effective July 1, 2017*) An electric distribution company may submit to the Public Utilities Regulatory Authority for approval one or more plans to acquire new fuel cell electricity generation that began operation on or after July 1, 2017. Any such plan shall utilize a competitive process for the purpose of providing distribution system benefits, including, but not limited to, avoiding or deferring distribution capacity upgrades, and enhancing distribution system reliability, including, but not limited to, voltage or frequency improvements. Any such plan shall give preference to proposals that make efficient use of existing sites and supply infrastructure. In the event that the authority approves such plan, an electric distribution company may submit to the authority (1) one or more proposals to build, own and operate new fuel cell generation, (2) proposed power purchase agreements negotiated with persons to build, own and operate new fuel cell generation, or (3) proposals to provide financial incentives for the installation of combined heat and power systems powered by fuel cells, provided any such incentives shall be consistent

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with the Comprehensive Energy Strategy pursuant to section 16a-3d of the general statutes. The facilities acquired, built pursuant to said power purchase agreements and that receive said financial incentives under this section shall not exceed a total nameplate capacity rating of thirty megawatts in the aggregate. Any proposal submitted by an electric distribution company to build, own and operate a fuel cell shall include the electric distribution company's full projected costs and shall demonstrate to the authority that such facility is not supported in any form of cross subsidization by affiliated entities. The authority shall evaluate any proposal submitted pursuant to this section in a manner that is consistent with the principles of sections 16-19 and 16-19e of the general statutes and may approve one or more proposals if it finds that such proposal (A) was developed in a manner that is consistent with the acquisition plan approved by the authority, (B) serves the long-term interests of ratepayers, and (C) cost-effectively avoids or defers distribution system costs. The costs incurred by an electric distribution company under this section shall be recovered from all customers of the electric distribution company through a fully reconciling component of electric rates for all customers of the electric distribution company, until the electric distribution company's next rate case, at which time any costs and investments for new fuel cell generation owned by the electric distribution company pursuant to subdivision (1) of this section shall be recoverable through base distribution rates. Nothing in this section shall preclude the resale or other disposition of any energy products, capacity and associated environmental attributes purchased by the electric distribution company, provided the electric distribution company shall net the cost of payments made to projects under any long-term contracts entered into pursuant to subdivision (2) of this section against the proceeds of the sale of any energy products, capacity and environmental attributes and the difference thereof plus any net costs incurred pursuant to subdivision (3) of this section shall be credited or charged to distribution customers through a reconciling component of electric

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rates, as determined by the authority, that is nonbypassable when switching electric suppliers. The electric distribution company may use any energy products, capacity and environmental attributes produced by such facility to meet the needs of customers served pursuant to section 16-244c of the general statutes, as amended by this act. Notwithstanding the provisions of subdivision (1) of subsection (h) of section 16-244c of the general statutes, as amended by this act, certificates issued by the New England Power Pool Generation Information System for any Class I renewable energy source acquired pursuant to this section may be retained by the electric distribution company to meet the requirements of section 16-245a of the general statutes, as amended by this act.

Sec. 2. Subdivision (21) of subsection (a) of section 16-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(21) "Class II renewable energy source" means [energy] electricity derived from a trash-to-energy facility [, a biomass facility that began operation before July 1, 1998, provided the average emission rate for such facility is equal to or less than .2 pounds of nitrogen oxides per million BTU of heat input for the previous calendar quarter, or a run-of-the-river hydropower facility provided such facility has a generating capacity of not more than five megawatts, does not cause an appreciable change in the riverflow, and began operation prior to July 1, 2003] that has obtained a permit pursuant to section 22a-208a and section 22a-174-33 of the regulations of Connecticut state agencies;

Sec. 3. Subsection (a) of section 16-245a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) An electric supplier and an electric distribution company providing standard service or supplier of last resort service, pursuant

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to section 16-244c, as amended by this act, shall demonstrate:

(1) On and after January 1, 2006, that not less than two per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(2) On and after January 1, 2007, not less than three and one-half per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(3) On and after January 1, 2008, not less than five per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(4) On and after January 1, 2009, not less than six per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(5) On and after January 1, 2010, not less than seven per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(6) On and after January 1, 2011, not less than eight per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an

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additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(7) On and after January 1, 2012, not less than nine per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(8) On and after January 1, 2013, not less than ten per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(9) On and after January 1, 2014, not less than eleven per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(10) On and after January 1, 2015, not less than twelve and one-half per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(11) On and after January 1, 2016, not less than fourteen per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(12) On and after January 1, 2017, not less than fifteen and one-half per cent of the total output or services of any such supplier or

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distribution company shall be generated from Class I renewable energy sources and an additional three per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(13) On and after January 1, 2018, not less than seventeen per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional [~~three~~] four per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(14) On and after January 1, 2019, not less than nineteen and one-half per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional [~~three~~] four per cent of the total output or services shall be from Class I or Class II renewable energy sources;

(15) On and after January 1, 2020, not less than twenty per cent of the total output or services of any such supplier or distribution company shall be generated from Class I renewable energy sources and an additional [~~three~~] four per cent of the total output or services shall be from Class I or Class II renewable energy sources.

Sec. 4. Subdivision (1) of subsection (h) of section 16-244c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(h) (1) Notwithstanding the provisions of subsection (b) of this section regarding an alternative standard service option, an electric distribution company providing 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 an [~~unconstested~~] unconstested

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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: (A) For calendar years up to and including calendar year 2017, 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, and (B) for calendar years commencing on and after January 1, 2018, 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 for Class I renewable energy sources, and two and one-half cents per kilowatt hour if the wholesale supplier fails to comply with the renewable portfolio standards during the subject annual period for Class II renewable energy sources. 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 Energy Fund for the development of Class I renewable energy sources, provided, on and after June 5, 2013, 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, as amended by this act, 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

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collected through nonbypassable, federally mandated congestion charges, as defined in section 16-1, as amended by this act.

Sec. 5. 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 (b) 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: (1) For calendar years up to and including calendar year 2017, five and one-half cents per kilowatt hour, and (2) for calendar years commencing on and after January 1, 2018, five and one-half cents per kilowatt hour if the licensee fails to comply with the renewable portfolio standards during the subject annual period for Class I renewable energy sources, and two and one-half cents per kilowatt hour if the licensee fails to comply with the renewable portfolio standards during the subject annual period for Class II renewable energy sources. On or before December 31, 2013, the authority shall issue a decision, following an uncontested proceeding, on whether any licensee has 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 June 5, 2013, the Public Utilities Regulatory Authority shall annually conduct

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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 June 5, 2013, 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, as amended by this act, 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.

Sec. 6. Section 2-24 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

The words "State of Connecticut" shall be printed at the head of each bill and document printed by order of the General Assembly, or either house thereof, and on its title page or cover, if any. Before printed, electronic or photographic copies of an original bill are made, the bill shall be endorsed with (1) the date of its introduction; (2) its number; (3) the name of the member or committee introducing it; and (4) the name of the committee to which it was referred. Copies of bills or resolutions printed or produced electronically after favorable report by a committee or reprinted or produced electronically after amendment on the third reading, i.e., files, shall bear the file number of such bill or resolution, placed conspicuously at the head of the same, which file

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number shall be assigned by the Legislative Commissioners' Office in the order printed or produced, the number and title of the bill, the name of the committee to which it was referred, the date and nature of the committee's report, [and,] in any case where the bill, if passed, would require the expenditure of state or municipal funds or affect state or municipal revenue, a fiscal note, including an estimate of the cost or of the revenue impact shall be appended thereto, and, in any case where the bill, if passed, would have a financial impact on electric ratepayers, a ratepayer impact statement, as described in subsection (b) of section 2-24a, as amended by this act. When a bill or resolution is accompanied with a report of a committee, other than a recommendation that it ought or ought not to pass, it shall then have an additional endorsement, as follows: "Accompanied by special report, No.-". Bills shall be designated in the calendar of each house by their file numbers, as well as by the titles and numbers of the bills.

Sec. 7. Section 2-24a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) No bill without a fiscal note appended thereto which, if passed, would require the expenditure of state or municipal funds or affect state or municipal revenue in the current fiscal year or any of the next ensuing five fiscal years shall be acted upon by either house of the General Assembly unless said requirement of a fiscal note is dispensed with by a vote of at least two-thirds of such house. Such fiscal note shall clearly identify the cost and revenue impact to the state and municipalities in the current fiscal year and in each of the next ensuing five fiscal years.

(b) Beginning with the session of the General Assembly commencing on January 9, 2019, no bill without a ratepayer impact statement appended thereto which, if passed, would have a financial impact on electric ratepayers, shall be acted upon by either house of the General Assembly unless said requirement of a ratepayer impact

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statement is dispensed with by a vote of at least two-thirds of such house. Such statement shall (1) be prepared by the Office of Fiscal Analysis; and (2) provide an assessment as to whether such bill will have a significant direct financial impact on the cost of electricity to the majority of Connecticut electric ratepayers.

Sec. 8. Section 2-24a of the general statutes, as amended by section 169 of public act 15-244, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(a) No bill without a fiscal note appended thereto which, if passed, would require the expenditure of state or municipal funds or affect state or municipal revenue in the current fiscal year or any of the next ensuing five fiscal years shall be acted upon by either house of the General Assembly unless said requirement of a fiscal note is dispensed with by a vote of at least two-thirds of such house. Such fiscal note shall clearly identify the cost and revenue impact to the state and municipalities in the current fiscal year and in each of the next ensuing five fiscal years. If the bill has any impact on the personal income tax imposed under chapter 229 or the corporation business tax imposed under chapter 208, or both, such fiscal note shall clearly identify any resulting impact on the deposits to the Budget Reserve Fund pursuant to section 4-30a.

(b) Beginning with the session of the General Assembly commencing on January 9, 2019, no bill without a ratepayer impact statement appended thereto which, if passed, would have a financial impact on electric ratepayers, shall be acted upon by either house of the General Assembly unless said requirement of a ratepayer impact statement is dispensed with by a vote of at least two-thirds of such house. Such statement shall (1) be prepared by the Office of Fiscal Analysis; and (2) provide an assessment as to whether such bill will have a significant direct financial impact on the cost of electricity to the majority of Connecticut electric ratepayers.

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Sec. 9. Subsection (c) of section 16-244r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(c) (1) The aggregate procurement of renewable energy credits by electric distribution companies pursuant to this section shall (A) be eight million dollars in the first year, and (B) increase by an additional eight million dollars per year in years two to four, inclusive.

(2) After year four, the authority shall review contracts entered into pursuant to this section and if the cost of the technologies included in such contracts have been reduced, the authority shall seek to enter new contracts for the total of six years.

(3) After year six, the authority shall seek to enter new contracts for the total of seven years.

(A) The aggregate procurement of renewable energy credits by electric distribution companies pursuant to this subdivision shall (i) increase by an additional eight million dollars per year in years five, [and] six and seven, (ii) be [forty-eight] fifty-six million dollars in years [seven] eight to fifteen, inclusive, and (iii) decline by eight million dollars per year in years sixteen to [twenty-one] twenty-two, inclusive, provided any money not allocated in any given year may roll into the next year's available funds.

(B) For the sixth and seventh year [solicitation] solicitations, each electric distribution company shall solicit and file with the Public Utilities Regulatory Authority for its approval one or more long-term contracts with owners or developers of Class I generation projects that: (i) Emit no pollutants and that are less than one thousand kilowatts in size, located on the customer side of the revenue meter and serve the distribution system of the electric distribution company, provided such contracts do not exceed fifty per cent of the dollar amount established

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for [year] years six and seven under subparagraph (A) of this subdivision; and (ii) are less than two megawatts in size, located on the customer side of the revenue meter, serve the distribution system of the electric distribution company, and use Class I technologies that have no emissions of no more than 0.07 pounds per megawatt-hour of nitrogen oxides, 0.10 pounds per megawatt-hour of carbon monoxide, 0.02 pounds per megawatt-hour of volatile organic compounds, and one grain per one hundred standard cubic feet, provided such contracts do not exceed fifty per cent of the dollar amount established for [year] years six and seven under subparagraph (A) of this subdivision. The authority may give a preference to contracts for technologies manufactured, researched or developed in the state.

[(3)] (4) The production of a megawatt hour of electricity from a Class I renewable energy source first placed in service on or after July 1, 2011, shall create one renewable energy credit. A renewable energy credit shall have an effective life covering the year in which the credit was created and the following calendar year. The obligation to purchase renewable energy credits shall be apportioned to electric distribution companies based on their respective distribution system loads at the commencement of the procurement period, as determined by the authority. For contracts entered into in calendar year 2012, an electric distribution company shall not be required to enter into a contract that provides a payment of more than three hundred fifty dollars, per renewable energy credit in any year over the term of the contract. For contracts entered into in calendar years 2013 to 2017, inclusive, at least ninety days before each annual electric distribution company solicitation, the Public Utilities Regulatory Authority may lower the renewable energy credit price cap specified in this subsection by three to seven per cent annually, during each of the six years of the program over the term of the contract. For contracts entered into in calendar year 2018, at least ninety days before the electric distribution company solicitation, the Public Utilities Regulatory Authority may

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lower the renewable energy credit price cap specified in this subsection by sixty-four per cent, during year seven of the program over the term of the contract. In the course of lowering such price cap applicable to each annual solicitation, the authority shall, after notice and opportunity for public comment, consider such factors as the actual bid results from the most recent electric distribution company solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

Sec. 10. Section 16a-3h of the general statutes is repealed and the following is substituted in lieu thereof (*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, the Office of Consumer Counsel and the Attorney General, may solicit proposals, in one solicitation or multiple solicitations, from providers of [run-of-the-river] the following resources or any combination of the following resources: Run-of-the-river hydropower, landfill methane gas, [or] biomass, fuel cell, offshore wind or anaerobic digestion, provided such source meets the definition of a Class I renewable energy source pursuant to section 16-1, as amended by this act, or energy storage systems. 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, [and] including, but not limited to, the development of combined heat and power systems, (7) whether the

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proposal is consistent with the policy goals outlined in the Comprehensive Energy Strategy adopted pursuant to section 16a-3d, (8) whether the proposal promotes electric distribution system reliability and other electric distribution system benefits, including, but not limited to, microgrids, (9) whether the proposal promotes the policy goals outlined in the state-wide solid waste management plan developed pursuant to section 22a-241a, and (10) the positive reuse of sites with limited development opportunities, including, but not limited to, brownfields or landfills, as identified by the commissioner in any solicitation issued pursuant to this section. 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, provided the commissioner shall not select proposals for more than three per cent of the load distributed by the state's electric distribution companies from offshore wind resources. 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] twenty 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] may be: (A) 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, as amended by this act, provided the revenues from such sale are credited to all customers of the contracting electric distribution company; or (B) retained by the electric distribution company to meet the requirements of section 16-245a, as amended by this act. In considering whether to sell or retain such certificates, the company shall select the option that is in the best interest of such company's ratepayers. Any such agreement shall be subject to review and approval by the Public Utilities Regulatory Authority, which review shall be completed not

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later than sixty days after the date on which such agreement is filed with the authority. The net costs of any such agreement, including costs incurred by the electric distribution companies under the agreement and reasonable costs incurred by the electric distribution companies in connection with the agreement, shall be recovered through a fully reconciling component of electric rates for all customers of electric distribution companies. All reasonable costs incurred by the Department of Energy and Environmental Protection associated with the commissioner's solicitation and review of proposals pursuant to this section shall be recoverable through the nonbypassable federally mandated congestion charges, as defined in section 16-1, as amended by this act.

Approved June 27, 2017