
OLR Bill Analysis

sHB 5537

AN ACT CONCERNING SHARED SOLAR FACILITIES AND MUNICIPAL AIRPORTS.

SUMMARY

This bill requires the Department of Energy and Environmental Protection (DEEP) commissioner to establish a two-year, municipal airport-shared solar pilot program to help develop municipal airport-shared solar facilities. Broadly, the program would allow customers to subscribe (i.e., contract) for a portion of the power generated by a solar-powered electricity generating facility located on a municipal airport. The subscriber's portion of the electricity produced at the facility would offset the subscriber's electric costs at another billing meter (e.g., a customer who subscribes for 100 kilowatts hours (kWh) of power generated at the facility would be charged for 100 kWh less usage at his or her residence).

The bill requires the commissioner to issue a request for proposals from a subscriber organization (i.e., municipality) that:

1. has a population between 128,000 and 135,000;
2. (a) owns or operates at least one clean energy facility to benefit its subscribers or (b) contracts with a municipal airport to build, own, or operate one or more clean shared energy facilities; and
3. wants to develop a municipal airport shared solar facility.

It establishes certain requirements and limitations for the subscriber organization and subscribers and also requires entities selling subscriptions to meet certain consumer protection-related requirements. The bill also establishes three different ways for determining how the billing credits under the program must be calculated (but it is unclear which way must apply).

Lastly, the bill (1) eliminates a provision that limits Tweed-New Haven Airport's Runway 2-20 to 5,600 linear feet in length and (2) requires the airport's Runway 14-32 to be closed.

EFFECTIVE DATE: October 1, 2018

DEFINITIONS

The bill defines the following terms:

1. "municipal airport-shared solar facility" is electricity derived from Class I solar power source that (a) is located on a municipal airport, (b) has a nameplate (i.e., generating) capacity of two megawatts or less, (c) is served by an electric distribution company (EDC; i.e., Eversource or United Illuminating), (d) has at least two subscribers, and (e) is within the same EDC service territory as the individual billing meters for subscriptions;
2. "subscriber" is an EDC's in-state, retail end user who (1) contracted for a subscription and (2) identified an individual billing meter to which the subscription must be attributed;
3. "subscription" is a beneficial use of a municipal airport shared solar facility, including a percentage interest in the total amount of electricity the facility produces or a set amount of electricity produced by the facility; and
4. "individual billing meter" is located within the service territory of the subscriber's EDC and is (a) an individual electric meter or (b) a set of electric meters combined for billing purposes.

DEEP REQUEST FOR PROPOSALS

The bill requires the DEEP commissioner to establish a two-year, municipal airport-shared solar pilot program to support the development of municipal airport shared solar facilities. It requires the commissioner, by July 1, 2019, to develop and issue a request for proposals (RFP) from subscriber organizations with a population between 128,000 and 135,000 seeking to develop a municipal airport shared solar facility. He must select a facility under the RFP.

SUBSCRIBER ORGANIZATION REQUIREMENTS

Under the bill, a subscriber organization (presumably the one selected in DEEP's RFP) must determine the price of subscriptions and comply with the bill's consumer protection provisions and all applicable state and federal securities and tax laws. It must be responsible for all liability and costs resulting from noncompliance with these provisions. The bill prohibits the organization from selling subscriptions totaling more than 100% of the electricity produced by a municipal airport-shared solar facility.

The bill requires the organization to quarterly provide, on its own or through a designated agent, the EDC with each subscriber's name; address; account number; meter number or numbers; and subscription percentage or amount. The organization may (1) update its subscribers once per quarter and (2) ask the EDC to bill subscribers on the organization's behalf, as long as the organization pays the EDC's costs associated with billing and collecting from subscribers, as approved by PURA.

The bill allows an EDC to (1) require a facility and its subscribers to have their meters read on the same billing cycle and (2) seek recovery for any costs associated with administering the facility (but does not specify from whom and by what means the EDC may recover these costs).

It prohibits a subscriber organization, subscriber, or any third-party that owns or operates a municipal airport-shared solar facility from owning or operating electric distribution services.

Subscribers

The bill prohibits a subscriber from having a subscription for more than 100% of the subscriber's own electric consumption, based on the subscriber's previous 12 months of energy usage.

BILLING CREDITS

The bill establishes three ways for determining how the billing credits under the program must be calculated and applied to

subscribers: (1) subscriber organization-determined credit, (2) PURA-determined credit, or (3) credits determined under the bill. It is unclear which should apply, however.

Subscriber Organization-Determined Credit

Once the commissioner selects a facility under the RFP, the bill requires the subscriber organization to determine the methodology for calculating the billing credit that any subscriber to the facility may be issued through the EDC's billing systems.

PURA-Determined Credit

The bill allows PURA to revise the subscriber organization-determined method for calculating credits at any time if it concludes that the revision is in the public interest and the existing methodology (1) does not provide subscribers with the fair value of electricity produced by the facility or (2) results in a net cost shift to non-participating ratepayers. (Since the bill does not require the subscriber organization to submit its methodology to PURA for approval, it is unclear how PURA may come to this conclusion.)

If PURA concludes that it must make such a revision, the bill requires it to open a proceeding to develop a new method to calculate the billing credit, based on the costs and benefits to EDCs and their customers and the economic conditions for operating shared clean energy facilities connected to the electric power grid as defined in statute. (The bill's reference to a statutory definition is unclear, as the referenced section does not define "shared clean energy facilities" or the economic conditions for operating them.) PURA may use the outcome of any proceeding that comprehensively addresses the costs and benefits of renewable distributed generation and includes municipal airport-shared solar facilities to inform its revisions to the methodology.

Billing Credits under the Bill

The bill also explicitly states how the bill credits must be calculated for each subscriber. It requires them to be calculated by multiplying the subscriber's allocated kilowatt hours by the municipal airport-

shared solar facility credit (i.e., the full retail electric rate otherwise applicable to the subscriber, as determined by PURA). For example, if a subscriber subscribed for 100 kWh of the shared solar facility's output, the subscriber's electric bill would receive a credit for 100 times the applicable retail electric rate on his or her electric bill (essentially, the subscriber would be billed as if he or she had used 100 kWh less of electricity).

The bill also allows a subscriber to agree to have the credit reduced by any deductions that the EDC would pay, on the subscriber's behalf, to the subscriber organization or a third-party entity for its operations and maintenance purposes. These deductions must be held in escrow or a trust account on the subscriber's behalf and must not be the property of the subscriber organization, EDC, or any third-party.

Under the bill, if the credit's value exceeds the amount that the subscriber owes to his or her EDC (i.e., he or she used less power than the facility generated for his or her allotment), as shown on the subscriber's bill at the end of the billing period, the remaining credit value must carry over from month to month until the value of any remaining bill credits are used. If the credit's value is less than the subscriber owes, then the subscriber must be billed for the difference.

Under the bill, if the facility's generating capacity is not fully subscribed, the facility's host airport must be credited with any remaining credits.

Facility Meters and Interconnection

The bill makes the facility's owner responsible for installing a revenue quality production meter at the facility. The owner must compensate the EDC for its reasonable costs to interconnect the facility with the company's electric grid. The meter must determine the amount of electricity generated by the facility each month and available for allocation. The EDC must read the meter.

Under the bill, the facility's owner or operator must follow the interconnection procedures established by PURA under existing law.

PURA Regulations

The bill allows PURA to adopt regulations to implement any of the above provisions on DEEP's RFP, subscriber organization requirements, and billing credits, but not subscription prices.

CONSUMER PROTECTION PROVISIONS

The bill requires any entity selling or reselling subscriptions to a municipal airport-shared solar facility to provide a disclosure to any potential subscriber before the sale or resale. The disclosure must include a good faith estimate of the annual kWh to be delivered by the facility, based on subscription size, and plain language explanations of the:

1. terms under which bill credits will be calculated, including a plain language explanation of the municipal airport-shared solar facility credit (i.e., the EDC's otherwise applicable retail electric rate);
2. proposed contract provisions regulating the subscription's disposition or transfer; and
3. potential subscriber's costs and benefits, and all assumptions used in the proposed contract, based on the subscriber's current usage and applicable tariff (i.e., rates).

The bill requires a subscriber to receive bill credits if the facility continues to generate and provide power to the electric grid, regardless of any bankruptcy or contractual default of any subscriber, subscriber organization, or third-party owner or operator of the facility. (It appears that this would allow a subscriber to default on his or her subscription contract and still receive billing credits.)

Under the bill, upon a showing that additional requirements are needed to protect existing or potential subscribers, PURA may adopt regulations to implement the above consumer protection provisions. (The bill does not specify who must show the need to protect subscribers or how they must do so.)

OTHER PROVISIONS

The bill specifies that it does not limit any other rights or obligations a subscriber may have related to (1) the EDC's provision and delivery of electric service or (2) the provision of a subscription by a subscriber organization, third party entity that owns a facility, or other entity, under any tariff, PURA decision, or state or federal law.

Under the bill, a subscriber organization must not be deemed to be an EDC or an electric supplier (thus, exempting it from being regulated as an EDC or electric supplier) solely because it owns or operates, or contracts with a third-party to build, own, or operate a municipal airport-shared solar facility.

BACKGROUND

Related Bills

sSB 9, favorably reported by the Energy and Technology Committee, requires EDCs to conduct annual solicitations to purchase energy and renewable energy certificates from certain renewable energy facilities that could include shared clean energy facilities similar to a municipal airport-shared solar facility.

SB 336, favorably reported by the Energy and Technology Committee, requires the DEEP commissioner to establish a statewide shared clean energy program.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 14 Nay 8 (03/26/2018)