
OLR Bill Analysis

sSB 9 (File 460, as amended by Senate "B")*

AN ACT CONCERNING CONNECTICUT'S ENERGY FUTURE.

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Provides additional information about Class I biomass facilities; the residential solar investment program; the Municipal Electric Consumer Advocate and Independent Consumer Advocate; DEEP's Renewable energy-related procurements; the Class I property tax exemption; Class I municipal building permit fee exemptions; and related bills

SUMMARY

This bill makes several changes in the laws governing the state's energy policy. Among other things, it

1. annually increases the state's renewable portfolio standard (RPS) requirement for Class I renewable energy sources starting in 2020, until it reaches 40% in 2030;
2. replaces the current net metering system with new tariff-based renewable energy programs that generally require the electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to develop a procurement plan and 20-year tariffs (detailed rate schedules) for purchasing energy and renewable energy credits (RECs) from certain low-emission, zero-emission, shared clean energy, and residential Class I renewable energy sources (e.g., fuel cells, solar, and wind);
3. reconfigures the funding mechanism for the state's Conservation and Load Management (CLM) Plan and the

energy efficiency services provided under it;

4. extends certain liability protections to the municipal electric consumer advocate and independent consumer advocate positions;
5. expands the list of renewable energy technologies considered Class I renewable energy sources to include certain zero-emission low grade heat power generation systems and run-of-the-river hydropower facilities; and
6. expands the Department of Energy and Environmental Protection's (DEEP) procurement authority to allow it to direct the EDCs to enter into certain renewable energy contracts to meet up to 6%, rather than 4%, of their demand.

The bill also makes numerous technical and conforming changes.

*Senate Amendment "B" replaces the underlying bill (File 460), which, in addition to establishing new tariff-based renewable energy programs and increasing the Class I RPS to 40% in 2030, would have (1) reconfigured the funding mechanism for the state's energy efficiency programs, and (2) increased the charge on electric bills that helps support the state's Clean Energy Fund.

EFFECTIVE DATE: Upon passage, except the provisions that (1) expand the list of renewable energy technologies considered Class I renewable energy are effective October 1, 2018, and (2) reconfigure energy efficiency funding are effective January 1, 2020.

§§ 1-4 — RENEWABLE PORTFOLIO STANDARD

Starting in 2020, annually increases the Class I RPS until it reaches 40% in 2030; allows PURA to establish procedures to reduce the RPS under certain circumstances; and starting in 2021, decreases the Class I ACP from 5.5 to 4 cents per kWh

Class I RPS Increase (§ 1)

The state's RPS law requires the EDCs and retail electric suppliers to procure an increasing portion of their power from certain renewable and other clean energy resources. They may meet the requirement by buying RECs created by these resources when they generate power.

Under current law, at least 17% of their power in 2018 must come from Class I renewable energy sources and in 2020, the last year of annual increases required under current law, at least 20% of their power must come from these sources.

Starting on January 1, 2020, the bill generally increases the 2020 Class I RPS requirement to 21%. However, it maintains the 20% RPS in 2020 for any electric supplier that entered into or renewed a retail electric supply contract before the bill's effective date.

The bill further increases the Class I RPS to 22.5% starting on January 1, 2021 and to 24% starting on January 1, 2022. It then continues increasing the Class I RPS by 2% each January 1 until it reaches 40% on January 1, 2030.

Under current law, an additional 4% of power must come from either Class I or II sources. The bill continues this requirement through 2030 and after.

The bill also makes a conforming change (§ 29).

PURA Adjustments to RPS (§§ 1 & 2)

The bill requires PURA to establish procedures for disposing the RECs purchased under the bill's new renewable energy programs (see §7). These may include procedures for (1) selling RECs consistent with the new programs or, (2) reducing the Class I RPS requirements if the RECs procured through the new program are retired and never used for compliance (presumably with an RPS) in any other jurisdiction. Any such reduction must be based on the energy production that PURA forecasts will be procured under the new programs.

The bill requires PURA to determine a reduction to the RPS at least one year before it becomes effective. It also exempts EDCs from responsibility for any administrative or other costs or expenses associated with any difference between the number of RECs planned to be retired under PURA's reduction and the actual number of RECs retired.

(The bill also specifies that RPS requirements may be subject to PURA-required modifications for retiring RECs under certain laws that authorize DEEP to oversee certain power procurement solicitations. However, as these laws do not authorize PURA to determine how the RECs procured through these solicitations must be retired, it is unclear how this provision would apply.)

Alternative Compliance Payment (§§ 3 & 4)

The law requires retail electric suppliers and the wholesale electric suppliers who provide power for the EDCs to pay an alternative compliance payment (ACP) if they fail to meet the RPS requirement. (Wholesale suppliers must do so as part of their contracts with EDCs.) Starting on January 1, 2021, the bill decreases the ACP for failing to comply with the Class I RPS from 5.5 cents per kilowatt-hour (kWh) to 4 cents per kWh.

Under current law, ACP payments must be refunded to EDC ratepayers to offset the costs to all EDC customers of contract costs from the state's current REC program (see below). The bill expands the required ACP uses to include EDC costs for the tariffs entered into under the bill's new renewable energy programs.

§ 3 — BIOMASS POWER PURCHASE CONTRACT

Requires an EDC to enter into a 10-year power purchase contract with certain energy biomass facilities

The bill requires an EDC, by July 1, 2018, to file for PURA's approval a 10-year power purchase contract with a Class I renewable energy biomass facility that began operating after December 1, 2013, if such a facility is within the EDC's service territory (see BACKGROUND). The contract must be for generation equivalent to 7.5 MW of electric capacity and not exceed \$0.09 per kWh for energy and RECs.

Under the bill, the costs the EDC incurs under the contract must be recovered on a timely basis through a non-bypassable, fully reconciling electric rate component for all of the EDC's customers.

§ 5 — NET METERING SUNSET

Sunsets the state's current net metering program for residential customers when the state's residential solar investment program expires, and for all other customers, when PURA approves the procurement plan for the new zero-emission, low-emission, and shared clean energy programs

Under current law, “net metering” generally allows customers who own certain renewable energy resources to earn billing credits at the retail electric rate when the customer generates more power than he or she uses (essentially “running the meter backwards”). The bill ends new net metering opportunities for (1) residential customers when the state’s residential solar investment program expires (see BACKGROUND) and (2) all other customers when PURA approves the procurement plan for the bill’s new zero-emission, low-emission, and shared clean energy programs.

It allows customers who are net metering before then to continue receiving net metering credits under the current system through December 31, 2039. PURA must establish a rate on a cents-per-kWh basis for the EDC to buy electricity generated by these customers after December 31, 2039.

§ 6 — REC PROGRAM EXTENSION

Extends the state's L-REC/ Z-REC program by one year

Under the state’s current L-REC/ Z-REC program, EDCs must enter into 15-year contracts to procure \$8 million in RECs from certain low-emission (L-REC) and zero-emission (Z-REC) clean energy generation projects each year through 2018. The bill extends the requirement for an additional year.

As was required during each of the program's previous seven years, in year eight the EDCs must enter into 15-year contracts to procure \$8 million of RECs. And as in the previous two years, in year eight the bill allows EDCs to procure (1) up to \$4 million in RECs from Class I generation projects that are less than 1 megawatt (MW) in size and emit no pollutants) and (2) up to \$4 million in RECs from Class I technologies that are less than 2 MW in size and have emissions of no more than 0.07 pounds per megawatt-hour (MWh) of nitrogen oxides, 0.10 pounds per MWh of carbon monoxide, 0.02 pounds per MWh of volatile organic compounds, and one grain (presumably of particulate

matter) per 100 standard cubic feet. All projects must also be on the customer's side of the meter and serve the EDC's distribution system.

Under the bill, any unallocated money for the program's procurements expires when PURA approves the procurement plan for the bill's new zero-emission, low-emission, and shared clean energy programs.

When this program began in 2012, the law established a \$350 price cap per REC and allowed PURA to lower the cap by 3% to 7% annually in subsequent years. For contracts entered into in calendar year 2019, the bill allows PURA to lower the price cap by 64% at least 90 days before the EDC solicitation (i.e., the same cap that applied in the previous year). As was the case for the program's first six years, PURA must (1) provide notice and an opportunity for public comment and (2) consider such factors as the actual bid results from the most recent solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

§ 7 — NEW RENEWABLE ENERGY PROGRAMS

Establishes new tariff-based programs for low-emission, zero-emission, shared clean energy, and residential clean energy facilities

Low-Emission, Zero-emission, and Shared Clean Energy Programs

The bill establishes tariff-based programs for EDCs to purchase energy and RECs from low-emission, zero-emission, and shared clean energy facilities. Under the bill, eligible low-emission and zero-emission projects are new generation projects that (1) customers own or develop on their own premises, (2) are under two megawatts in size, (2) serve the EDC's distribution system, (3) are built after the solicitation conducted under the process below, and (4) use a Class I renewable energy source. However, zero-emission projects must emit no pollutants and low-emission projects must either (1) use anaerobic digestion or (2) emit no more than 0.07 pounds per MWh of nitrogen oxides, 0.10 pounds per MWh of carbon monoxide, 0.02 pounds per MWh of volatile organic compounds and one grain (presumably of particulate matter) per 100 standard cubic feet.

Under the bill, shared clean energy facilities are Class I renewable energy sources that (1) are served by an EDC, (2) have a nameplate capacity rating of four MW or less, and (3) have at least two subscribers. A subscription to such a facility is a contract for a beneficial use of a shared clean energy facility, including a percentage interest in the total amount of electricity the facility produces or a set amount of electricity the facility produces.

Under the bill, eligible shared clean energy projects are not also eligible low-emission or zero-emission projects.

Procurement Plan. The bill requires PURA, by September 1, 2018, to open a proceeding to establish a procurement plan for each EDC. Each EDC must develop the procurement plan in consultation with the Department of Energy and Environmental Protection (DEEP) and submit it to PURA within 60 days after PURA opens the proceeding. The plan (1) may give a preference to technologies manufactured, researched, or developed in the state and (2) must be consistent with and contribute to the state's statutory requirement to reduce greenhouse gas emissions.

To allow for a diversity of selected projects, PURA may require the EDCs to conduct separate solicitations for low-emission, zero-emission, and shared clean energy projects based on their size.

Low-emission and Zero-emission Tariffs. The bill requires PURA, by September 1, 2018, to begin a proceeding to establish tariffs that provide for 20-year terms of service for EDCs to apply to eligible low-emission and zero-emission facilities. In the proceeding, PURA must establish the period of time that will be used to calculate the net amount of energy produced by a facility and not consumed, which must be (1) in real time (i.e., simultaneous generation and use); (2) one day; or (3) in any fraction of a day. In doing so, it must also assess whether to incorporate time-of-use rates or other dynamic pricing. The rate for the tariffs must be established by the solicitations for the programs.

Shared Clean Energy. The bill requires DEEP, by September 1,

2018, to initiate a proceeding to develop program requirements and tariff proposals for eligible shared clean energy facilities. DEEP must also establish one or both of the following tariff proposals for the facilities:

1. a proposal that includes a cents-per-kWh price cap based on the procurement results from any of the low-emission, zero-emission, or shared clean energy procurements and
2. a proposal that includes a tariff rate for customers that own eligible shared clean energy facilities based on energy policy goals identified by DEEP in the state's Comprehensive Energy Strategy (CES).

DEEP must submit the program's requirements and tariff proposals for PURA's review and approval by July 1, 2019. PURA must approve or modify them by January 1, 2020. If it approves both of the tariff proposals described above, PURA must determine how much of the total compensation authorized for shared clean energy facilities (presumably, capacity under the aggregate procurement cap, see below) will be available under each tariff.

Shared Clean Energy Program Requirements. In developing the shared clean energy program, the bill requires DEEP to do the following:

1. require the program to use one or more EDC tariff mechanisms for a term of up to 20 years, subject to PURA's approval, to pay for EDC purchases of any energy products and RECs produced by an eligible shared clean energy facility, or to deliver any of the facility's billing credits;
2. allow for cost-effective projects of various nameplate capacities so multiple projects may be constructed in each EDC's service area;
3. determine the billing credit for any shared clean energy facility's subscriber that may be issued through the EDC's

monthly billing systems;

4. establish consumer protections for a facility's subscribers and potential subscribers, including disclosures made when selling or reselling a subscription;
5. limit subscribers to (a) low-income customers, (b) moderate-income customers, (c) small businesses, (d) state or municipal customers, (e) commercial customers, and (f) residential customers who can demonstrate, under DEEP-determined and PURA-approved criteria, that they are unable to use the tariffs offered under the bill's residential renewable energy program; and
6. require at least 10% of a facility's total capacity to be sold, given, or provided to low income customers, and an additional 10% to be sold, given, or provided to low- or moderate-income customers or low-income service organizations.

DEEP may also (1) allow preferences for projects that serve low-income customers and facilities that benefit customers who reside in environmental justice communities, (2) create incentives or other financing mechanisms to encourage participation by low-income customers, and (3) require that no more than 50% of a shared clean energy facility's total capacity is sold to commercial customers.

Under the bill:

1. a "low-income subscriber" is an in-state retail end user of an EDC (a) whose income does not exceed 80% of the area median income (AMI) defined by the U.S. Department of Housing and Urban Development, adjusted for family size, or (b) that is an affordable housing facility (i.e., where individuals with annual income at or below the municipality's AMI pay no more than 30% of their income for housing);
2. a "moderate income subscriber" is an in-state retail end user of an EDC whose income is between 80 and 100% of the AMI;

3. a “low-income service organization” is an organization that provides service or assistance to low-income individuals; and
4. an “environmental justice community” is (a) any U.S. census block group, as determined by the most recent census, for which at least 30% of the population consists of low-income people who are not institutionalized and have an income below 200% of the federal poverty level or (b) a distressed municipality (CGS § 22a-20a).

Annual Solicitations and Project Size Limits. The bill requires each EDC to conduct an annual solicitation or solicitations, as determined by PURA, to purchase energy and RECs produced by eligible generation projects over each applicable tariff’s duration. Low-emission and zero-emission projects must generally be sized so that they do not exceed the load (demand) at the customer’s individual electric meter, or a set of electric meters if they are combined for billing purposes. The bill specifies that the customer’s applicable load is from the EDC serving the customer, as determined by the EDC.

If the customer is a state, municipal, or agricultural customer, the project’s maximum size may also include the load of up to (1) five state, municipal, or agricultural beneficial accounts identified by the customer and (2) five non-state or municipal beneficial accounts if they are critical facilities (e.g., hospitals) connected to a microgrid. (Although undefined in the bill, a beneficial account is generally a separately metered account to which a customer can assign certain billing credits generated by his or her renewable energy facility.)

In any of these solicitations, an eligible low-emission or zero-emission project may choose to use either (1) a tariff for purchasing all energy and RECs on a cents-per-kWh basis or (2) a tariff for purchasing on a cents-per-kWh basis (a) any energy produced by the facility and not consumed in the PURA-established period of time and (b) all RECs generated by the facility.

The bill requires each EDC, by July 1, 2020, and annually thereafter, to solicit and file for PURA’s approval one or more projects selected

under the procurement plans and consistent with the PURA-approved tariffs for eligible low-emission, zero-emission, and shared clean energy facilities and applicable to customers that own them.

Price Cap. For the first year's solicitations for eligible projects, the bill requires PURA to establish a cap on the selected purchase price of energy and RECS on a cents-per-kWh basis. After the first year, the selected purchase price of energy and RECs on a cents-per-kWh basis in any given solicitation must not exceed the maximum selected purchase price for the same resources in the prior year's solicitation, unless PURA determines that circumstances have changed.

Aggregate Procurement Cap. The bill caps the aggregate total megawatts available to customers using a procurement and tariff offered by an EDC under the bill's low-emission, zero-emission, and shared clean energy programs. It sets the cap at 85 MW in year one and increases it by up to an additional 85 MW annually in years two through six of the applicable tariff. The bill further caps the total megawatts available to customers within each program at 10 MW per year for the low-emission program, 50 MW per year for the zero-emission program, and 25 MW per year for the shared clean energy program.

The bill requires PURA to monitor the competitiveness of any procurement authorized under these three programs and allows it to adjust the annual purchase amount or other procurement parameters to maintain competitiveness. Any megawatts unallocated in any given year must not roll into the next year's available megawatts. The obligation to purchase energy and RECs must be apportioned to the EDCs based on their respective distribution system loads, as determined by PURA.

Residential Program

The bill requires PURA to open a proceeding, by September 1, 2019, to establish the following:

1. tariffs for each EDC (see below);

2. a rate for the residential tariffs, which must be guided by the state's Comprehensive Energy Strategy (CES) and may be based on (a) the results of the competitive solicitations for the zero-emission, low-emission, and shared clean energy programs tariff provisions or (b) the average cost of installing the generation project and a reasonable rate of return that is just, reasonable, and adequate, as determined by PURA; and
3. the period of time that will be used for calculating the net amount of energy produced by a facility and not consumed, which must be (a) in real time (i.e., simultaneous generation and use), (b) one day, or (c) in any fraction of a day, and whether to incorporate time-of-use rates or other dynamic pricing.

The bill allows PURA to (1) modify the rate for new residential customers based on changed circumstances and (2) establish an interim tariff rate before the residential solar investment program expires as an alternative to that program. Any residential customer using this tariff at his or her electric meter may not receive any residential solar investment program incentives at the same meter. Similarly, any customers participating in the residential solar investment program may not use the new tariff at the same meter.

Residential Tariffs. When the state's residential solar investment program expires, the bill requires each EDC to offer the following two options for residential customers to sell their products generated from a Class I renewable energy source that has a nameplate (generating) capacity of 25 kW or less to the EDC for up to a 20-year term:

1. a "buy-all, sell-all" tariff for the EDC to purchase all energy and RECs generated by the customer's system on a cents-per-kilowatt-hour basis (and under which the customer pays regular retail rates for all energy used) and
2. a "net export" tariff to for the EDC to purchase, on a cents-per-kilowatt-hour basis, (a) any energy produced and not consumed in the period of time PURA establishes as described above and (b) all RECs generated by the customer's system.

The bill requires residential customers to select either option consistent with the bill's requirements. Their generation projects must be sized so they do not exceed the load at the customer's individual electric meter, as determined by the customer's EDC.

Under the bill, residential customers are customers of a single-family dwelling or a multifamily dwelling with two to four units.

The bill requires the EDCs to offer these tariffs for six years. At the end of a "net export" tariff's term, residential customers using that tariff must be credited all cents-per-kWh charges under the customer's tariff rate for energy produced by the Class I renewable energy source against any energy consumed in real time by the customer.

Other Provisions

PURA Tariffs upon Expiration. The bill requires PURA to establish tariffs to purchase energy on a cents-per-kWh basis once any tariffs created under the bill expire.

DEEP Review. At the beginning of year six of the procurements authorized under the bill, DEEP, in consultation with PURA, must assess their related tariff offerings and determine if they are competitive compared to the cost of the technologies. DEEP must report the results of its determination to the legislature.

Adders. The bill requires PURA, for any tariff established under the bill, to examine how to incorporate the following energy system benefits into the rate established for the tariff:

1. energy storage systems that provide electric distribution system benefits,
2. a facility's location on the distribution system,
3. time of use rates or other dynamic pricing, and
4. other energy policy benefits identified in the CES.

REC Disposal. The bill requires PURA to determine which of the

following two options is in ratepayers' best interests and direct the EDCs to:

1. retire the RECs it purchases under the bill's zero-emission, low-emission, shared clean energy, and residential programs on behalf of all ratepayers to satisfy the obligations of all electric suppliers and EDCs (in general, RECs are "retired" when they are used to satisfy RPS requirements and taken out of the REC market) or
2. sell the RECs purchased under the programs into the New England Power Pool Generation information system renewable energy credit market.

PURA must establish procedures for the retirement of the RECs. Any net revenues from the REC sales must be credited to customers through a non-bypassable fully reconciling electric rate component for all EDC customers.

EDC Cost Recovery. The bill requires an EDC's costs from the bill's zero-emission, low-emission, shared clean energy, and residential programs to be recovered on a timely basis through a non-bypassable, fully reconciling component of the electric rates charged to all EDC customers. Any net revenues from the sale of products purchased under the programs must be credited to customers through the same rate component.

§ 8 — REDUCED ENERGY CONSUMPTION

Makes it the state's policy to annually reduce energy consumption by at least 1.6 million MMBtus from 2020 through 2025

The bill specifies that it is the state's policy to reduce energy consumption by at least 1.6 million MMBtus, or the equivalent megawatts of electricity, annually for each calendar year from 2020 through 2025. Under the bill, MMBtu is one million BTU of heat input.

§§ 9, 11-24, & 32 — ENERGY EFFICIENCY

Reconfigures funding for the state's energy efficiency programs

Conservation and Load Management Plan and Services

By law, every three years the EDCs and gas companies must prepare and submit a combined Conservation and Load Management (CLM) Plan to implement cost-effective energy conservation programs and market transformation initiatives. The plan must be approved by the Energy Conservation Management Board and the DEEP commissioner. The bill requires the plan to also include (1) demand management initiatives and (2) steps needed to reduce energy consumption by at least 1.6 million MMBtus, or the equivalent megawatts of electricity, annually for each calendar year from 2020 through 2025.

Current law requires the services provided under the plan to be available to all customers of EDCs and gas companies. The bill specifies that an EDC's customers may not be denied these services based on the fuel the customer uses to heat his or her home. (Under current practice, customers who do not heat their homes with gas only qualify for electricity-saving services, unless other funding is available.)

Energy Efficiency Funding

By law, a portion of the programs and services provided under the CLM plan are funded through conservation charges paid by EDC and natural gas customers and the utility companies administer the plan's programs and services (CGS § 16-245m). Under current law, EDC customers must pay a conservation charge of three mills per kWh of electricity used, plus an additional conservation adjustment charge of up to three mills per kWh if the CLM plan's budget for EDCs exceeds the revenues from the conservation charge. (In practice, the combined conservation and conservation adjustment charges are currently 6 mills per kWh.) The funds from the conservation charge and conservation adjustment charges must be deposited in the Energy Conservation and Load Management Fund, and EDCs must apply to the Energy Conservation Management Board (ECMB) to be reimbursed for their expenditures under the plan.

On January 1, 2020, the bill eliminates the (1) CLM fund, (2) EDC's three mill conservation charge and three mill conservation adjustment

charge, and (3) requirement for EDCs to apply to the ECMB for reimbursements. It instead requires:

1. PURA, within 60 days after the DEEP commissioner approves a CLM plan, to ensure that the revenues required to fund the plan, rather than the plan's budget, are provided through a fully reconciling conservation adjustment mechanism (CAM) and
2. the EDCs to collect a CAM that ensures the CLM Plan is fully funded by collecting up to six mills per kWh of electricity sold to each of its end use customers during the three years of any CLM Plan.

The bill does not change the conservation charge paid by gas company customers but requires the revenues from it to fund the plan, rather than the plan's budget. The bill makes numerous similar conforming changes such as requiring funds currently required to be deposited in the CLM fund to instead be used to further the CLM Plan. (Presumably, this will allow CLM funds to be used directly by the utility companies for CLM programs and services without first being deposited in the fund, which the bill eliminates.)

§ 10 — GREEN BANK CONTRACTS

Requires the state's pledge to not limit or alter the bank's rights to be interpreted and applied broadly to maintain the bank's financial capacity; allows the bank to appropriate money sufficient to meet its contracts

Existing law specifies that Connecticut pledges and agrees, with any person with whom the Green Bank contracts, to not limit or alter the bank's rights unless (1) the bank has fully met its obligations under the contracts or (2) the state provides adequate provisions in law to protect the other parties to the contracts. The bill requires this provision to be interpreted and applied broadly to effectuate and maintain the bank's financial capacity to perform its essential public and governmental function.

The bill also (1) requires the bank's contracts and obligations to be obligatory on the bank and (2) allows the bank to appropriate in each year during the term of such contracts an amount of money that,

together with the bank's other available funds, must be sufficient to pay the contracts or meet any contractual covenants or warranties.

§ 25 — MUNICIPAL ELECTRIC CONSUMER ADVOCATE AND INDEPENDENT CONSUMER ADVOCATE LIABILITY PROTECTION

Extends certain liability and indemnification protections to the municipal electric consumer advocate and independent consumer advocate positions

The bill extends certain liability protections to the municipal electric consumer advocate and independent consumer advocate (see BACKGROUND). It does this by adding them to the list of state officers and employees who, by law, are not personally liable for damage or injury caused while discharging their duties within the scope of their employment, unless it was wanton, reckless, or malicious. Anyone with a complaint about such damage or injury must present it as a claim against the state under the law for such claims (CGS § 4-165).

Adding the two advocates to the list also requires the state to indemnify them from financial loss and expense arising out of any claim, demand, suit, or judgment due to their alleged negligence or deprivation of someone's civil rights or other act or omission resulting in damage or injury. For the indemnity to apply, the advocates must have been discharging their duties or acting within the scope of their employment, and the act or omission must not have been wanton, reckless, or malicious. Among other things, the attorney general must represent the advocates in any related proceedings, unless he determines that it would be inappropriate to do so (CGS § 5-141d).

The addition also explicitly prohibits the advocates from taking or threatening any personnel action against any state or quasi-public agency employees (i.e., whistleblowers), or any employees of a large state contractor, in retaliation for providing information to certain public officials (CGS § 4-61dd).

§ 26 — CMEEC FORENSIC AUDITS

Eliminates a report requirement for certain CMEEC audits

The law requires the Connecticut Municipal Electric Energy Cooperative's (CMEEC) to have a forensic examination, conducted by

a certified forensic auditor, which includes a review of CMEEC's revenue and expenditures for the preceding five years. Current law requires the auditor to submit two reports: one that includes an opinion on CMEEC's financial statements and a management letter, and one that includes an opinion on the conformance of CMEEC's operating procedures with state law and CMEEC's bylaws and any recommendations for corrective actions needed to ensure conformance.

The bill eliminates the requirement for these two reports and instead requires one report that includes a review of whether CMEEC's operating procedures comply with state law and CMEEC's bylaws and any recommendations for corrective actions needed to ensure conformance. It also specifies that the auditor is not required to perform a full financial audit of the five-year period or submit an opinion regarding the financial statements or a management letter.

§ 27-29 — CLASS I EXPANSION

Expands the list of Class I renewable energy sources to include certain (1) zero-emission low grade heat power generation systems and (2) run-of-the-river hydropower facilities that receive a new license under FERC rules; prohibits EDCs and suppliers from meeting more than 1% of their RPS requirement with RECs generated by these newly licensed hydropower facilities

The bill expands the list of renewable energy technologies considered Class I renewable energy sources to include certain (1) zero-emission low grade heat power generation systems and (2) run-of-the-river hydropower facilities that received a new license after January 1, 2018, under the Federal Energy Regulatory Commission's rules for the takeover and relicensing of licensed water power projects.

By classifying them as Class I, the bill allows EDCs and electric suppliers to use the RECs generated by these technologies to meet their Class I RPS requirements. But, the bill also prohibits EDCs and suppliers from meeting more than 1% of their RPS requirement with RECs generated by these newly licensed hydropower facilities. It also makes conforming changes.

It also allows these technologies to (1) participate in certain power

procurements administered by the Department of Energy and Environmental Protection (DEEP), (2) qualify for certain property tax exemptions, and (3) when applicable, be exempt from municipal building permit fees (see BACKGROUND).

Zero-emission Low Grade Heat Power Generation Systems

The law classifies low emission advanced renewable energy conversion technologies as Class I sources. The bill specifies that these technologies include zero-emission low grade heat power generation systems based on organic oil-free Rankine, Kalina, or other similar non-steam cycles that use waste heat from an industrial or commercial process that does not generate electricity. In general, these systems capture the waste heat from an industrial or commercial process and use it to run a turbine that produces electricity.

Small Hydropower

Current law classifies a run-of-the-river hydropower facility as a Class I renewable energy source if it began operating after July 1, 2003 and has a generating capacity of no more than 30 megawatts (MW). The bill further extends Class I status to run-of-river hydropower facilities that received a new license after January 1, 2018, under the Federal Energy Regulatory Commission's rules for the takeover and relicensing of licensed water power projects (18 C.F.R. 16).

As under existing law, a hydroelectric facility that applies for Class I certification after January 1, 2013 must (1) not be based on a new dam or a dam identified by the DEEP commissioner as a candidate for removal and (2) meet applicable state and federal requirements, including applicable site-specific standards for water quality and fish passage.

§ 30 — MUNICIPAL ELECTRIC UTILITIES AND RATE DESIGN STUDIES

Establishes deadlines and limits certain report requirements for municipal electric companies

The law requires municipal electric companies to determine whether to implement various rate design standards (e.g., time of day

rates, seasonal rates). Current law requires them to do so within two years, but does not specify when the two-year time frame starts. The bill instead requires them to do so by July 1, 2018.

The law also requires municipal electric companies to determine, by June 1, 2017, whether to implement electric vehicle time of day rates. Under the bill, any municipal electric company that completed a determination on the rate design standards or electric vehicle time of day rates by July 1, 2017, cannot be required to complete such a determination again.

§ 31 — DEEP PROCUREMENT

Allows DEEP to direct the EDCs to enter into certain renewable energy contracts to meet up to 6%, rather than 4%, of their demand

The law allows the DEEP commissioner to solicit proposals from providers of certain Class I energy sources such as run-of-the-river hydropower, fuel cells, offshore wind, and anaerobic digestion facilities. If the commissioner finds the proposals meet certain conditions, he may direct the EDCs to enter into up to 20-year agreements to purchase energy, capacity, and environmental attributes, or any combination of them, to meet up to 4% of the EDCs' load (i.e., demand). (DEEP has already solicited and selected proposals for parts of this procurement.) The bill allows the commissioner to direct the EDCs to enter into these agreements to meet up to 6%, rather than 4%, of their load.

By law, unchanged by the bill, (1) the commissioner may not select proposals for more than 3% of the EDCs' load from offshore wind, (2) DEEP's reasonable costs for the solicitation and proposal review must be recovered through the non-bypassable federally mandated congestion charge on ratepayers' bills, and (3) the EDCs must recover their net costs from the agreements through a fully reconciling electric rate component for all EDC customers.

BACKGROUND

Provides additional information about Class I biomass facilities; the residential solar investment program; the Municipal Electric Consumer Advocate and Independent Consumer Advocate; DEEP's Renewable energy-related procurements; the Class I

property tax exemption; Class I municipal building permit fee exemptions; and related bills

Class I Biomass Facility

By law, a Class I renewable energy biomass facility must (1) use a sustainable biomass fuel (e.g., waste wood) and have an average emission rate of no more than 0.075 pounds of nitrogen oxides per million BTU of heat input per quarter or (2) be a biomass facility with a capacity under 500 kilowatts that began construction before July 1, 2003 (CGS § 16-1(a)(20)). The Plainfield Renewable Energy biomass facility is currently the state's only Class I biomass facility that began operating after December 1, 2013. It is within Eversource's service territory.

Residential Solar Investment Program

The Residential Solar Investment Program, administered by the Connecticut Green Bank, offers financial incentives to purchase or lease certain residential solar photovoltaic systems and requires the EDC to purchase the renewable energy credits produced through the program. By law, the program must expire on December 31, 2022, or when the program deploys 300 megawatts of residential solar photovoltaic installations, whichever occurs earlier.

Municipal Electric Consumer Advocate and Independent Consumer Advocate

PA 17-73 created the municipal electric consumer advocate position to act as an independent advocate for consumer interests in all matters, including electric rates, affecting CMEEC customers. Among other things, the advocate may appear and participate in CMEEC matters or any other federal or state regulatory or judicial proceeding that may involve CMEEC customers.

PA 17-1 established an independent consumer advocate position to advocate for and represent Metropolitan District Commission (MDC) customers in all matters that may affect them, including rates, water quality, water supply, and wastewater service quality. Among other things, the advocate may appear and participate in MDC matters and federal or state regulatory and judicial proceedings involving MDC

consumers.

DEEP Procurements

The law requires the DEEP commissioner, under certain conditions, to solicit proposals from Class I renewable energy sources built on or after January 1, 2013. It also allows him, under certain conditions, to solicit proposals from (1) Class I resources built before January 1, 2013 or large-scale hydropower and (2) Class I run-of-the-river hydropower, landfill methane gas, or biomass resources. It additionally requires him to solicit proposals from operational Class I providers if he finds that a material shortage of Class I resources caused an electric company or electric supplier to fail to meet its RPS obligations (CGS §§ 16a-3f, -3g, -3h, -3i).

By law, if the commissioner finds that any of the above solicited proposals meet certain criteria, he may (or, in the case of an RPS-related shortage, must) direct the EDCs to enter into agreements with the providers to purchase energy, generating capacity, and RECs, subject to approval by the Public Utilities Regulatory Authority. (In practice, most, but not all of these procurements have occurred.)

Property Tax Exemption

The law exempts from the property tax any Class I renewable energy source installed for generation or displacement of energy if it (1) is installed on or after January 1, 2014; (2) is for commercial or industrial purposes; and (3) has a nameplate (generating) capacity that does not exceed its location's load (demand) or, if it is a virtual net metering facility, the aggregated load of its beneficial accounts (CGS § 12-81(57)).

Municipal Building Permit Fees

By law, a municipality may, by ordinance adopted by its legislative body, exempt Class I renewable energy source projects from paying its municipally-imposed building permit fees (CGS § 29-263).

Related Bills

sSB 331, reported favorably by the Energy and Technology

Committee expands the list of renewable energy technologies considered Class I renewable energy sources to include certain (1) oil-free Organic Rankine Cycle systems that produce power from thermal energy and (2) run-of-the-river hydropower facilities that began operating on or before July 1, 2003.

SB 333, reported favorably by the Energy and Technology Committee, and passed by the Senate and House, (1) requires municipal electric companies to determine whether to implement various rate design standards by July 1, 2018 and (2) specifies that a municipal electric company that completed a determination by July 1, 2017, on the rate design standards or electric vehicle time of day rates cannot be required to complete such a determination again. (These provisions are identical to § 30 in the underlying bill.)

sSB 337, reported favorably by the Energy and Technology Committee, requires an EDC to file for PURA's approval a 10-year contract to purchase 7.5 megawatts of electric capacity from a Class I renewable energy biomass facility that began operating after December 1, 2013, if such a facility is within the EDC's service territory.

sHB 5537, reported favorably by the Planning and Development Committee, requires the DEEP commissioner to establish a two-year municipal airport shared solar pilot program to help develop shared solar facilities located on municipal airports.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 20 Nay 5 (03/29/2018)