
OLR Bill Analysis

sHB 7156

AN ACT CONCERNING THE PROCUREMENT OF ENERGY DERIVED FROM OFFSHORE WIND.

SUMMARY

This bill allows the Department of Energy and Environmental Protection (DEEP) commissioner, in consultation with certain other state officials, to solicit proposals from developers of facilities that generate electricity using offshore wind. In developing the solicitations, the commissioner must require any selected proposals to include:

1. contractual commitments to (a) pay at least the prevailing wage to construction workers on the project and (b) engage in good faith negotiations over a project labor agreement (PLA) for the project (see BACKGROUND);
2. an explicit description of the best management practices that will be used to avoid, minimize, and mitigate any impacts on wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses; and
3. certain requirements related to protecting fishing vessels and commercial fishing.

If the commissioner determines that a responding proposal meets certain criteria, such as being in ratepayers' best interests and having a positive impact on the state's economic development, the bill allows the commissioner to direct the electric distribution companies (EDCs; i.e., Eversource and United Illuminating) to enter into up to 20-year power purchase agreements (PPAs) to buy energy, capacity, or environmental attributes (e.g., renewable energy certificates) under the proposal. Under the bill, the commissioner may select proposals that have a total nameplate (i.e., generating) capacity rating of 2,000

megawatts (MW) or less.

The bill requires any resulting PPA to be subject to review by the Public Utilities Regulatory Authority (PURA). PURA must approve the PPA if it meets certain criteria specified in the bill, such as meeting a clear public need at a just and reasonable price. The bill requires that the EDCs recover the PPA's net costs from ratepayers through a fully reconciling component of electric rates for all EDC customers. Any net revenues from selling products purchased under the PPAs must be credited to ratepayers through the same electric rate component.

The bill requires the next Integrated Resources Plan (IRP) to determine (1) how much energy the DEEP commissioner may seek in the solicitations, which must be from resources that have, in the aggregate, a total nameplate capacity rating of 2,000 MW or less, and (2) the timing and schedule of solicitations. By law, DEEP, in consultation with the EDCs, must prepare an IRP which contains, among other things, a comprehensive plan for procuring energy resources.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2019, except the provision regarding the next IRP is effective upon passage.

OFFSHORE WIND PROCUREMENT

DEEP Solicitation of Proposals

The bill allows the DEEP commissioner, in consultation with the state's electric procurement manager and the Office of Consumer Counsel, to issue one or more solicitations for proposals from providers of energy derived from offshore wind facilities that are Class I renewable energy sources. The solicitations must be (1) for quantities of energy and within the timing and schedule determined by the commissioner and (2) informed by the IRP, as amended by the bill (see below). The commissioner may issue the solicitations on behalf of Connecticut alone or in coordination with other states in the regional electric grid's control area (i.e., the other New England states).

Prevailing Wage & PLAs. The bill requires the commissioner, in developing the solicitations, to include requirements for selected bids to contain contract commitments that require (1) the payment of at least the prevailing wage, as described in the state's prevailing wage law, to any laborers, workmen, and mechanics performing construction activities for the project within the country and (2) selected bidders to engage in good faith negotiations over a project labor agreement. Any of these solicitations must specify the minimum terms that the PLA must address.

Best Practices. The bill requires the commissioner, in developing the solicitations, to include requirements for selected bids to include an explicit description of the best management practices, informed by the latest science when the proposal is made, that the bidder will use to avoid, minimize, and mitigate any impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses.

Commercial Fishing Protections. The bill requires the commissioner, in developing the solicitations, to include requirements for selected bids to:

1. require that wind turbines be installed in an east-west orientation and spaced at least two nautical miles apart to lessen any impact to current fishing vessel operators;
2. identify necessary transit routes to accommodate fishing vessels so they may safely and efficiently traverse lease areas;
3. require an evaluation of the proposal's impacts on ocean circulation patterns and water flow;
4. require a study of cable exposure to ensure the best location and depth of cables that will be installed to limit risk exposure;
5. require an analysis of underwater noise impacts;
6. require protections for fisheries that are at least equal to any protections adopted by New York;

7. require selected bidders to contribute to regional science and monitoring activities, as long as any studies conducted for these activities are conducted or approved by the National Marine Fisheries Service;
8. require bidders to submit a fisheries mitigation plan, to which the bidder must adhere, that focuses on avoiding and minimizing the impacts to the state's fisheries and fishermen; and
9. require the development of a compensation fund that will be funded at a level to sufficiently compensate fishermen and fishing communities affected by the project, as determined by economic studies.

Proposal Selection

The bill requires the commissioner, when selecting any proposals that respond to the solicitations, to consider whether the proposal:

1. is in ratepayers' best interests, including the energy source's delivered price;
2. promotes electric distribution system reliability, including during winter peak demand;
3. has any positive impacts on the state's economic development;
4. is consistent with the state's (a) statutory requirements to reduce greenhouse gas emissions, (b) policy goals outlined in the state's Comprehensive Energy Strategy and IRP, and (c) goals and policies set in the Coastal Management Act and Long Island Sound Blue Plan; and
5. uses practices to avoid, minimize, and mitigate impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses.

In considering whether a proposal has any positive impacts on the state's economic development, the commissioner must consult with

the Department of Economic and Community Development commissioner.

The bill allows the DEEP commissioner to select proposals that, in the aggregate, have a total nameplate capacity rating of 2,000 MW or less.

Contracts with EDCs

For the selected proposals, the bill allows the DEEP commissioner to direct the EDCs to enter into PPAs to purchase energy, capacity, and environmental attributes (e.g., renewable energy certificates (RECs)), or any combination of them, for up to 20-year terms, on behalf of all EDC customers in the state.

Under the bill, Class I RECs issued by the New England Power Pool Generation Information System and procured by the EDCs under a PPA may be (1) sold into the system's REC market to be used by any electric supplier or EDC to meet the state's Renewable Portfolio Standard (RPS) requirements, as long as revenues from the sale are credited to EDC customers, or (2) kept by the EDC to meet its own RPS requirements.

When considering whether to sell or keep the RECs, the EDC must pick the option that is in the best interest of its ratepayers. In general, the RPS 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.

PURA Review & EDC Cost Recovery

The bill requires any resulting PPA to be subject to PURA's review and approval, which must be completed within 120 days after it is filed with PURA. The authority must approve a PPA if it determines that the agreement:

1. provides for the delivery of adequate and reliable products and services, for which there is a clear public need, at a just and reasonable price;

2. is prudent and cost effective; and
3. is between an EDC and a solicitation respondent that has the technical, financial, and managerial capabilities to perform under the PPA.

The bill requires that the EDCs recover the net costs of a PPA, including costs incurred under the PPA and reasonable costs incurred in connection with it, through a fully reconciling component of electric rates for all EDC customers. Any net revenues from selling products purchased under long-term contracts entered into under the bill's procurement process must be credited to customers through the same electric rate component.

IRP

The bill requires DEEP, in the next IRP approved after January 1, 2019, to determine (1) how much energy the DEEP commissioner may seek in the bill's solicitations, as long as it is not from resources that have a total nameplate capacity rating of more than 2,000 MW in the aggregate, and (2) the timing and schedule of any of the bill's solicitations.

These determinations must be based on factors that include the electricity system needs identified in the IRP, including capacity, winter reliability, progress in meeting the state Global Warming Solutions Act's goals, the Comprehensive Energy Strategy's priorities, positive impacts on the state's economic development, opportunities to coordinate procurement with other states, forecasted trends in technology costs, and impacts on state ratepayers.

BACKGROUND

Prevailing Wage

The state's prevailing wage law (CGS § 31-53) requires employers on certain public works projects to pay their construction workers wages and benefits equal to those that are customary or prevailing for the same work, in the same trade or occupation, in the same town (i.e., the "prevailing wage"). The law allows the state Department of Labor

(DOL) to (1) hold hearings to gather data and calculate prevailing wage rates or (2) use the prevailing wage rates for Connecticut calculated by the federal Department of Labor. In practice, DOL uses the federally calculated rates.

Project Labor Agreements

In general, a project labor agreement is a pre-hire agreement covering the terms and conditions for all people working on a specific construction project (e.g., a collective bargaining agreement that applies to a specific construction project and lasts only for the duration of the project, but guarantees the project will only use union labor).

Related Bill

SB 875, reported favorably by the Energy and Technology Committee, also allows the DEEP commissioner to solicit proposals from offshore wind developers, but it (1) allows her to select proposals that meet, in the aggregate, up to 15% of the load distributed by the EDCs and (2) does not contain the same provisions regarding best practices and commercial fishing protections.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 20 Nay 3 (03/14/2019)