
OLR Bill Analysis

sHB 7156 (as amended by House "A")*

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

SUMMARY

This bill establishes a process for the Department of Energy and Environmental Protection (DEEP) commissioner, in consultation with certain other state officials, to (1) solicit proposals from developers of offshore wind power facilities and (2) direct the electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to enter into long-term contracts under proposals from responding bidders that meet certain criteria.

More specifically, the bill (1) requires the commissioner, within 14 days after the bill is enacted, to initiate a solicitation for offshore wind projects that have a total nameplate (i.e., generating) capacity of up to 2,000 megawatts (MW) in the aggregate and (2) allows the commissioner to issue additional solicitations after 2019 on a schedule that must provide for soliciting resources with a nameplate capacity rating of 2,000 MW in the aggregate by the end of 2030. In addition, each bidder responding to a solicitation issued under the bill in 2019 must submit at least one proposal for eligible resources with a nameplate capacity rating of 400 MW.

In developing the solicitations, the commissioner must require any selected proposals to include contractual commitments to (1) pay at least the prevailing wage to construction workers on the project and (2) engage in good faith negotiations over a project labor agreement (PLA) for the project (see BACKGROUND).

The bill requires bidders responding to solicitations to include an environmental and fisheries mitigation plan for their facilities' construction and operation that explicitly describes the best

management practices that the bidder will use to avoid, minimize, and mitigate any impacts on wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses, including commercial fishing. It requires the commissioner to establish a commission on environmental standards to provide input on these practices.

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 her to direct the EDCs to enter into up to 20-year power purchase agreements (PPAs) to buy energy, capacity, associated transmission, or environmental attributes (e.g., renewable energy certificates) under the proposal. The commissioner may select proposals that have a total nameplate (i.e., generating) capacity rating of 2,000 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.

For solicitations initiated after 2019, the bill requires the next Integrated Resources Plan (IRP) to determine (1) how much energy the DEEP commissioner may seek in the solicitations and (2) the timing and schedule of solicitations. Under the bill, 2019 and subsequent solicitations must be from resources with a nameplate capacity rating of 2,000 MW in the aggregate and the schedule must provide for solicitations for this quantity by December 31, 2030. By law, DEEP, in consultation with the EDCs, must prepare an IRP that contains, among other things, a comprehensive plan for procuring energy resources.

Lastly, the bill makes technical and conforming changes (§4).

*House Amendment "A, among other things, (1) requires the commissioner to initiate a solicitation within 14 days after the bill

becomes effective; (2) requires responses to the 2019 solicitation to include at least one proposal for a 400 MW resource; (3) removes a provision that would have required selected proposals to meet specific requirements related to protecting fishing vessels and commercial fishing and instead requires developers to include an environmental and fisheries mitigation plan; and (4) requires the commissioner to establish a commission on environmental standards to provide input on best practices.

EFFECTIVE DATE: Upon passage

DEEP SOLICITATION OF PROPOSALS

The bill allows the DEEP commissioner, in consultation with the state's electric procurement manager, the Office of Consumer Counsel, and the attorney general, to issue one or more solicitations for proposals from providers of energy derived from offshore wind facilities that are Class I renewable energy sources and their associated transmission. But it requires her, within 14 days after the bill is enacted, to initiate a solicitation for projects that have a total nameplate capacity rating of up to 2,000 MW in the aggregate.

The bill requires each bidder responding to any solicitations issued under the bill in 2019 to submit at least one proposal for eligible resources with a nameplate capacity rating of 400 MW. It prohibits the commissioner from considering or selecting any proposals from a bidder who does not do so.

Any solicitations issued under the bill on or after January 1, 2020, (1) must be for quantities of energy and within the timing and schedule determined by the commissioner and (2) may be informed by the IRP prepared on or before January 1, 2020, as amended by the bill (see below). The solicitation schedule, however, must provide for soliciting resources with a nameplate capacity rating of 2,000 MW in the aggregate by December 31, 2030.

The commissioner may issue the solicitations on behalf of Connecticut alone or in coordination with other states in (1) its

regional electric grid's control area (i.e., the other New England states) or (2) a neighboring control area (i.e., New York).

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 (see BACKGROUND) 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.

Environmental and Fisheries Mitigation Plan

The bill requires any bidder responding to a solicitation to include an environmental and fisheries mitigation plan for constructing and operating the offshore wind facilities. The plan must at least 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, including commercial fishing.

The bill requires the commissioner, for each solicitation, to establish a commission on environmental standards to provide input on these best management practices during the facilities' construction and operation.

Skilled Labor Plan

The bill allows a responding bidder to include its plans for using skilled labor, including for any of the proposal's construction and manufacturing components. These may include any outreach or hiring and referral systems, or any combination of them, affiliated with an apprenticeship training program registered with the Connecticut State Apprenticeship Council.

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, including commercial fishing.

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, associated transmission, 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. PURA must complete its review within (1) 90 days after an agreement is filed with PURA for a solicitation issued in 2019 and (2) 120 days after an agreement is filed with PURA for any solicitation issued on or after January 1, 2020.

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.

DEEP Consultants

The bill also allows the DEEP commissioner to hire consultants with expertise in quantitative modeling of electric and gas markets to assist in implementing the bill's procurement process, including evaluating submitted proposals. It requires all reasonable costs associated with the solicitation and proposal reviews to be recovered through the same fully reconciling rate component for all EDC customers.

IRP

The bill explicitly requires DEEP to prepare the next IRP by January 2020. It also 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 initiated after 2019, as long as it is not from resources that have a total nameplate capacity rating of more than 2,000 MW in the aggregate, less any energy purchased under the bill before the end of 2019, and
2. the timing and schedule of any of the bill's solicitations initiated after 2019, as long as the schedule provides for soliciting resources with a nameplate capacity rating of 2,000 MW in the aggregate by December 31, 2030, less any energy purchased under the bill before the end of 2019.

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)