



Senate

General Assembly

File No. 374

January Session, 2019

Substitute Senate Bill No. 960

Senate, April 3, 2019

The Committee on Energy and Technology reported through SEN. NEEDLEMAN of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PUBLIC UTILITIES REGULATORY AUTHORITY'S REVIEW OF CLAIMS ARISING FROM CONTRACTS PREVIOUSLY APPROVED BY THE AUTHORITY, PERSONS INVOLVED IN THE TRANSPORTATION OF NATURAL GAS AND REQUIREMENTS FOR OPERATOR QUALIFICATION OF INDIVIDUALS PERFORMING COVERED TASKS ON A PIPELINE FACILITY, CALL BEFORE YOU DIG PROGRAM VIOLATIONS AND FINES AND THE PUBLIC UTILITIES REGULATORY POLICIES ACT.

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

1 Section 1. Section 16-35 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Any person, including, but not limited to, a company, town, city,
4 borough or corporation aggrieved by any order, authorization or
5 decision of the Public Utilities Regulatory Authority, except an order,
6 authorization or decision of the authority approving the taking of land,
7 in any matter to which such person was or ought to have been made a
8 party or intervenor, may appeal therefrom in accordance with the

9 provisions of section 4-183, provided any person who is party to a
10 contract described in subsection (d) of this section shall first bring their
11 claim to the authority pursuant to said subsection. Such person so
12 appealing shall give bond to the state, with sufficient surety, for the
13 benefit of the adverse party, in such sum as the authority fixes, to pay
14 all costs in case such person fails to sustain such appeal. No
15 municipality or political subdivision shall be determined not to be
16 aggrieved solely because there are other persons who are similarly
17 affected by the order, authorization or decision of the authority.

18 (b) Any person who may appeal an order, authorization or decision
19 of the authority under subsection (a) of this section who was an
20 intervenor or, after timely application, was denied intervenor status to
21 the authority proceeding, shall be limited to raise on appeal only those
22 issues that (1) such person addressed during the proceeding or were
23 addressed in the final decision, or (2) such person raised in his request
24 for intervenor status if he was denied intervenor status.

25 (c) Notwithstanding any provision of this title and title 16a,
26 proceedings in which the Public Utilities Regulatory Authority
27 conducts a request for proposals or any other procurement process for
28 the purpose of acquiring electricity products or services for the benefit
29 of ratepayers shall be uncontested.

30 (d) (1) The first dispute arising from a contract that is approved by
31 the Public Utilities Regulatory Authority on or after the effective date
32 of this section where (A) the contract was approved by the authority
33 pursuant to section 16-19hh, 16-243m, 16-243u, 16-244r, 16-244s, 16-
34 244t, 16-244y, 16a-3b, 16a-3f, 16a-3g, 16a-3h, 16a-3i, 16a-3j, 16a-3k, 16a-
35 3l or 16a-3m, (B) a public service company is a party to the contract, (C)
36 the contract price is funded by ratepayers, and (D) the purpose of the
37 contract is for the public service company to purchase products and
38 services for the benefit of ratepayers, shall be brought by a party to
39 such contract to the authority. A party may petition the authority for a
40 declaratory ruling or make an application for review pursuant to this
41 subsection or the section of the general statutes that governs such

42 contract. Notwithstanding subsection (a) of section 4-176, the authority
43 may not on its own motion initiate a proceeding to review a contract
44 described in this subsection.

45 (2) The authority shall review such contract claims brought
46 pursuant to subdivision (1) of this subsection. The authority shall
47 decide such contract claims by issuing a declaratory ruling or a final
48 decision in a contested case proceeding, including ordering legal and
49 equitable contract remedies. Any party to such contract shall have the
50 right to appeal to the Superior Court from any such declaratory ruling
51 or final decision adjudicating such contract claims pursuant to
52 subsection (a) of this section.

53 Sec. 2. Section 16-7 of the general statutes is repealed and the
54 following is substituted in lieu thereof (*Effective from passage*):

55 The utility commissioners of the Public Utilities Regulatory
56 Authority, or their designees, while engaged in the performance of
57 their duties may, at all reasonable times, enter any premises, buildings,
58 cars, plants or other places belonging to or controlled by any public
59 service company, [or] electric supplier or person involved in the
60 transportation of gas, as such terms are defined in section 16-280a, and
61 any person obstructing or in any way causing to be obstructed or
62 hindered any utility commissioner of the Public Utilities Regulatory
63 Authority or employee of the Public Utilities Regulatory Authority in
64 the performance of his or her duties shall be fined not more than two
65 hundred dollars or imprisoned not more than six months, or both.

66 Sec. 3. Section 16-8a of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective from passage*):

68 (a) No public service company, as defined in section 16-1, as
69 amended by this act, holding company, as defined in section 16-47,
70 person involved in the transportation of gas, as such terms are defined
71 in section 16-280a, or Nuclear Regulatory Commission licensee
72 operating a nuclear power generating facility in this state, or person,
73 firm, corporation, contractor or subcontractor directly or indirectly

74 providing goods or services to such public service company, holding
75 company, person involved in the transportation of gas, as such terms
76 are defined in section 16-280a, or licensee, may take or threaten to take
77 any retaliatory action against an employee for the employee's
78 disclosure of (1) any matter involving the substantial misfeasance,
79 malfeasance or nonfeasance in the management of such public service
80 company, holding company, person involved in the transportation of
81 gas, as such terms are defined in section 16-280a, or licensee, or (2)
82 information pursuant to section 31-51m. Any employee found to have
83 knowingly made a false disclosure shall be subject to disciplinary
84 action by the employee's employer, up to and including dismissal.

85 (b) Any employee of such a public service company, holding
86 company, person involved in the transportation of gas, as such terms
87 are defined in section 16-280a, or licensee, or of any person, firm,
88 corporation, contractor or subcontractor directly or indirectly
89 providing goods or services to such a public service company, holding
90 company, person involved in the transportation of gas, as such terms
91 are defined in section 16-280a, or licensee, having knowledge of any of
92 the following may transmit all facts and information in the employee's
93 possession to the Public Utilities Regulatory Authority: (1) Any matter
94 involving substantial misfeasance, malfeasance or nonfeasance in the
95 management of such public service company, holding company,
96 person involved in the transportation of gas, as such terms are defined
97 in section 16-280a, or licensee; or (2) any matter involving retaliatory
98 action or the threat of retaliatory action taken against an employee
99 who has reported the misfeasance, malfeasance or nonfeasance, in the
100 management of such public service company, holding company,
101 person involved in the transportation of gas, as such terms are defined
102 in section 16-280a, or licensee. With regard to any matter described in
103 subdivision (1) of this subsection, the authority shall investigate such
104 matter in accordance with the provisions of section 16-8 and shall not
105 disclose the identity of such employee without the employee's consent
106 unless it determines that such disclosure is unavoidable during the
107 course of the investigation. With regard to any matter described in
108 subdivision (2) of this subsection, the matter shall be handled in

109 accordance with the procedures set forth in subsections (c) and (d) of
110 this section.

111 (c) (1) Not more than ninety business days after receipt of a written
112 complaint, in a form prescribed by the authority, by an employee
113 alleging the employee's employer has retaliated against an employee
114 in violation of subsection (a) of this section, the authority shall make a
115 preliminary finding in accordance with this subsection.

116 (2) Not more than five business days after receiving a written
117 complaint, in a form prescribed by the authority, the authority shall
118 notify the employer by certified mail. Such notification shall include a
119 description of the nature of the charges and the substance of any
120 relevant supporting evidence. The employer may submit a written
121 response and both the employer and the employee may present
122 rebuttal statements in the form of affidavits from witnesses and
123 supporting documents and may meet with the authority informally to
124 respond verbally about the nature of the employee's charges. The
125 authority shall consider in making its preliminary finding as provided
126 in subdivision (3) of this subsection any such written and verbal
127 responses, including affidavits and supporting documents, received by
128 the authority not more than twenty business days after the employer
129 receives such notice. Any such response received after twenty business
130 days shall be considered by the authority only upon a showing of good
131 cause and at the discretion of the authority. The authority shall make
132 its preliminary finding as provided in subdivision (3) of this subsection
133 based on information described in this subdivision, without a public
134 hearing.

135 (3) Unless the authority finds by clear and convincing evidence that
136 the adverse employment action was taken for a reason unconnected
137 with the employee's report of substantial misfeasance, malfeasance or
138 nonfeasance, there shall be a rebuttable presumption that an employee
139 was retaliated against in violation of subsection (a) of this section if the
140 authority finds that: (A) The employee had reported substantial
141 misfeasance, malfeasance or nonfeasance in the management of the

142 public service company, holding company, person involved in the
143 transportation of gas, as such terms are defined in section 16-280a, or
144 licensee; (B) the employee was subsequently discharged, suspended,
145 demoted or otherwise penalized by having the employee's status of
146 employment changed by the employee's employer; and (C) the
147 subsequent discharge, suspension, demotion or other penalty followed
148 the employee's report closely in time.

149 (4) If such findings are made, the authority shall issue an order
150 requiring the employer to immediately return the employee to the
151 employee's previous position of employment or an equivalent position
152 pending the completion of the authority's full investigatory proceeding
153 pursuant to subsection (d) of this section.

154 (d) Not later than thirty days after making a preliminary finding in
155 accordance with the provisions of subsection (c) of this section, the
156 authority shall initiate a full investigatory proceeding in accordance
157 with the provisions of section 16-8, at which time the employer shall
158 have the opportunity to rebut the presumption. The authority may
159 issue orders, impose civil penalties, order payment of back pay or
160 award attorneys' fees in a manner that conforms with the notice and
161 hearing provisions in section 16-41, as amended by this act, against a
162 public service company, holding company, person involved in the
163 transportation of gas, as such terms are defined in section 16-280a, or
164 licensee or a person, firm, corporation, contractor or subcontractor
165 directly or indirectly providing goods or services to such public service
166 company, holding company, person involved in the transportation of
167 gas, as such terms are defined in section 16-280a, or licensee, in order
168 to enforce the provisions of this section.

169 (e) If an employee or former employee of such a public service
170 company, holding company, person involved in the transportation of
171 gas, as such terms are defined in section 16-280a, or licensee, or of a
172 person, firm, corporation, contractor or subcontractor directly or
173 indirectly providing goods or services to such a public service
174 company, holding company, person involved in the transportation of

175 gas, as such terms are defined in section 16-280a, or licensee, having
176 knowledge of any matter involving the substantial misfeasance,
177 malfeasance or nonfeasance in the management of such public service
178 company, holding company, person involved in the transportation of
179 gas, as such terms are defined in section 16-280a, or licensee, enters
180 into an agreement with the employee's employer that contains a
181 provision directly or indirectly discouraging the employee from
182 presenting a written complaint or testimony concerning such
183 misfeasance, malfeasance or nonfeasance in any legislative,
184 administrative or judicial proceeding, such provision shall be void as
185 against public policy.

186 (f) The Public Utilities Regulatory Authority shall adopt regulations,
187 in accordance with chapter 54, to carry out the provisions of this
188 section. Such regulations shall include the following: (1) The
189 procedures by which a complaint may be brought pursuant to
190 subsection (a) of this section; (2) the time period in which such a
191 complaint may be brought; (3) the time period by which the authority
192 shall render a decision pursuant to subsection (d) of this section; (4) the
193 form on which written complaints shall be submitted to the authority
194 by an employee pursuant to subsection (c) of this section; and (5) the
195 requirement that a notice be posted in the workplace informing all
196 employees of any public service company, holding company, person
197 involved in the transportation of gas, as such terms are defined in
198 section 16-280a, and licensee and of any person, firm, corporation,
199 contractor or subcontractor directly or indirectly providing goods or
200 services to a company or licensee, as defined in subsection (b) of this
201 section, of their rights under this section, including the right to be
202 reinstated in accordance with subsection (c) of this section.

203 Sec. 4. Section 16-11 of the general statutes is repealed and the
204 following is substituted in lieu thereof (*Effective from passage*):

205 The Public Utilities Regulatory Authority shall, so far as is
206 practicable, keep fully informed as to the condition of the plant,
207 equipment and manner of operation of all public service companies

208 and persons involved in the transportation of gas, as such terms are
209 defined in section 16-280a, in respect to their adequacy and suitability
210 to accomplish the duties imposed upon such companies by law and in
211 respect to their relation to the safety of the public and of the employees
212 of such companies. The authority may order such reasonable
213 improvements, repairs or alterations in such plant or equipment, or
214 such changes in the manner of operation, as may be reasonably
215 necessary in the public interest. The general purposes of this section
216 and sections 16-19, 16-25, 16-43 and 16-47 are to assure to the state of
217 Connecticut its full powers to regulate its public service companies, to
218 increase the powers of the Public Utilities Regulatory Authority and to
219 promote local control of the public service companies of this state, and
220 said sections shall be so construed as to effectuate these purposes.

221 Sec. 5. Section 16-16 of the general statutes is repealed and the
222 following is substituted in lieu thereof (*Effective from passage*):

223 Each public service company, [and] electric supplier and person
224 involved in the transportation of gas, as such terms are defined in
225 section 16-280a, subject to regulation by the Public Utilities Regulatory
226 Authority shall, in the event of any accident attended with personal
227 injury or involving public safety, which was or may have been
228 connected with or due to the operation of its or his property, or caused
229 by contact with the wires of any public service company or electric
230 supplier, notify the authority thereof, by telephone or otherwise, as
231 soon as may be reasonably possible after the occurrence of such
232 accident, unless such accident is a minor accident, as defined by
233 regulations of the authority. Each such person, company or electric
234 supplier shall report such minor accidents to the authority in writing,
235 in summary form, once each month. If notice of such accident, other
236 than a minor accident, is given otherwise than in writing, it shall be
237 confirmed in writing within five days after the occurrence of such
238 accident. Any person, company or electric supplier failing to comply
239 with the provisions of this section shall be fined not more than five
240 hundred dollars for each offense.

241 Sec. 6. Subsection (a) of section 16-41 of the general statutes is
242 repealed and the following is substituted in lieu thereof (*Effective from*
243 *passage*):

244 (a) Each (1) public service company and its officers, agents and
245 employees, (2) electric supplier or person providing electric generation
246 services without a license in violation of section 16-245, and its officers,
247 agents and employees, (3) certified telecommunications provider or
248 person providing telecommunications services without authorization
249 pursuant to sections 16-247f to 16-247h, inclusive, and its officers,
250 agents and employees, (4) person, public agency or public utility, as
251 such terms are defined in section 16-345, subject to the requirements of
252 chapter 293, (5) person subject to the registration requirements under
253 section 16-258a, (6) cellular mobile telephone carrier, as described in
254 section 16-250b, (7) Connecticut electric efficiency partner, as defined
255 in section 16-243v, (8) company, as defined in section 16-49, as
256 amended by this act, [and] (9) entity approved to submeter pursuant to
257 section 16-19ff, and (10) person involved in the transportation of gas,
258 as such terms are defined in section 16-280a, shall obey, observe and
259 comply with all applicable provisions of this title and each applicable
260 order made or applicable regulations adopted by the Public Utilities
261 Regulatory Authority by virtue of this title as long as the same remains
262 in force. Any such company, electric supplier, certified
263 telecommunications provider, cellular mobile telephone carrier,
264 Connecticut electric efficiency partner, entity approved to submeter,
265 person, any officer, agent or employee thereof, public agency or public
266 utility which the authority finds has failed to obey or comply with any
267 such provision of this title, order or regulation shall be fined by order
268 of the authority in accordance with the penalty prescribed for the
269 violated provision of this title or, if no penalty is prescribed, not more
270 than ten thousand dollars for each offense, except that the penalty shall
271 be a fine of not more than forty thousand dollars for failure to comply
272 with an order of the authority made in accordance with the provisions
273 of section 16-19 or 16-247k or within thirty days of such order or
274 within any specific time period for compliance specified in such order.
275 Each distinct violation of any such provision of this title, order or

276 regulation shall be a separate offense and, in case of a continued
277 violation, each day thereof shall be deemed a separate offense. Each
278 such penalty and any interest charged pursuant to subsection (g) or (h)
279 of section 16-49, as amended by this act, shall be excluded from
280 operating expenses for purposes of rate-making.

281 Sec. 7. Section 16-280e of the general statutes is repealed and the
282 following is substituted in lieu thereof (*Effective from passage*):

283 (a) Any person that violates any provision of the federal act, any
284 regulation issued under the federal act, any provision of this chapter or
285 any regulation adopted by the authority pursuant to subsection (b) or
286 (c) of section 16-280b, shall be subject to a civil penalty not to exceed
287 the higher of the maximum civil penalty provided under 49 USC
288 60122(a), as amended, or 49 CFR 190.223(a), as amended from time to
289 time.

290 (b) Any such civil penalty may be compromised by the Public
291 Utilities Regulatory Authority. In determining the amount of such
292 penalty, or the amount agreed upon in compromise, the authority shall
293 consider the criteria set forth in 49 USC 60122(b), as amended.

294 (c) Nothing in this section shall be construed to limit the penalties
295 available under section 16-33.

296 Sec. 8. (NEW) (*Effective from passage*) (a) For purposes of this section:

297 (1) "Covered task" means an activity that is performed on a pipeline
298 facility and that affects the safety or integrity of the pipeline; and

299 (2) "Evaluation" means a process, established and documented by
300 the operator, to determine an individual's ability to perform a covered
301 task by a (A) a written or oral examination, and (B) observation during
302 performance on the job or simulations.

303 (b) In addition to the minimum requirements for operator
304 qualification of individuals performing covered tasks on a pipeline
305 facility pursuant to 49 CFR 192, Subpart N, the requirements of this

306 section shall be applicable to such operators in the state.

307 (c) Each operator shall:

308 (1) Evaluate an individual if the operator has reason to believe that
309 the individual did not correctly perform a covered task;

310 (2) Train all individuals to ensure that individuals performing
311 covered tasks have the necessary knowledge and skills to perform
312 covered tasks in a manner that ensures the safe operation of pipeline
313 facilities;

314 (3) Document in a plan the training requirements, including, but not
315 limited to, the minimum training time for each covered task;

316 (4) Conduct evaluations more than forty-eight hours after training;

317 (5) Ensure that the evaluation process is performed by operator
318 personnel or independent third-party contractors;

319 (6) Ensure that the evaluation process evaluates task-specific
320 abnormal operating conditions;

321 (7) Ensure that inspectors are qualified for the covered tasks they
322 are inspecting;

323 (8) Ensure that the training and evaluation process is specific to the
324 operator's plans, procedures and standards; and

325 (9) Ensure that the written qualification program includes a training
326 and evaluation process for personnel performing engineering tasks.

327 Sec. 9. (NEW) (*Effective from passage*) (a) Any person involved in the
328 transportation of gas, as such terms are defined in section 16-280a of
329 the general statutes, except persons involved in the transportation of
330 propane, shall utilize geographic information systems to map all of
331 such person's pipeline facilities, as defined in section 16-280a of the
332 general statutes.

333 (b) Any person involved in the transportation of gas, as such terms
334 are defined in section 16-280a of the general statutes, except persons
335 involved in the transportation of propane, shall provide remote real-
336 time, read-only access to all of such person's electronic systems, if the
337 authority determines that such access will be beneficial in keeping the
338 authority fully informed as to the condition of a plant, equipment and
339 manner of operation pursuant to section 16-11 of the general statutes,
340 as amended by this act.

341 Sec. 10. (NEW) (*Effective from passage*) On or before October 1, 2019,
342 and on or before October first of each year thereafter, any person
343 involved in the transportation of gas, as such terms are defined in
344 section 16-280a of the general statutes, except persons involved in the
345 transportation of natural gas, shall submit to the authority, on a form
346 prescribed by the authority, information the authority deems relevant
347 about such person's propane distribution systems that are subject to
348 the jurisdiction of the authority. Any changes to such information
349 submitted shall be submitted to the authority within thirty days of
350 such change.

351 Sec. 11. Section 16-356 of the general statutes is repealed and the
352 following is substituted in lieu thereof (*Effective from passage*):

353 Any person, public agency or public utility which the Public
354 Utilities Regulatory Authority determines, after notice and
355 opportunity for a hearing as provided in section 16-41, as amended by
356 this act, to have failed to comply with any provision of this chapter or
357 any regulation adopted under section 16-357 shall forfeit and pay to
358 the state a civil penalty of not more than forty thousand dollars,
359 provided any violation involving the failure of a public utility to mark
360 any approximate location of an underground utility facility correctly
361 or within the time frames prescribed by regulation, which violation
362 did not result in any property damage or personal injury and was not
363 the result of an act of gross negligence on the part of the public utility,
364 shall not result in a civil penalty of more than one thousand dollars.
365 Any civil penalty assessed for any violation involving the failure of a

366 public utility to properly or timely mark any approximate location of
367 an underground facility shall be paid by the person, public agency or
368 public utility to whom the notice is addressed. If any such person,
369 public agency or public utility recovers any portion of the penalty from
370 any person, the authority may direct such person, public agency or
371 public utility to forfeit such recovered penalty, as provided in such
372 notice. Notwithstanding the provisions contained in subsection (d) of
373 section 16-41, the person, public agency or public utility receiving a
374 notice of violation pursuant to subsection (c) of section 16-41 shall have
375 thirty days from the date of receipt of the notice in which to deliver to
376 the authority a written application for a hearing.

377 Sec. 12. Section 16-243a of the general statutes is repealed and the
378 following is substituted in lieu thereof (*Effective from passage*):

379 [(a) As used in this section, "avoided costs" means the incremental
380 costs to an electric public service company, municipal electric energy
381 cooperative organized under chapter 101a or municipal electric utility
382 organized under chapter 101, of electric energy or capacity or both
383 which, but for the purchase from a private power producer, as defined
384 in section 16-243b, such company, cooperative or utility would
385 generate itself or purchase from another source.

386 (b) Each electric public service company, municipal electric energy
387 cooperative and municipal electric utility shall: (1) Purchase any
388 electrical energy and capacity made available, directly by a private
389 power producer or indirectly under subdivision (4) of this subsection;
390 (2) sell backup electricity to any private power producer in its service
391 territory; (3) make such interconnections in accordance with the
392 regulations adopted pursuant to subsection (h) of this section
393 necessary to accomplish such purchases and sales; (4) upon approval
394 by the Public Utilities Regulatory Authority of an application filed by a
395 willing private power producer, transmit energy or capacity from the
396 private power producer to any other such company, cooperative or
397 utility or to another facility operated by the private power producer;
398 and (5) offer to operate in parallel with a private power producer. In

399 making a decision on an application filed under subdivision (4) of this
400 subsection, the authority shall consider whether such transmission
401 would (A) adversely impact the customers of the company,
402 cooperative or utility which would transmit energy or capacity to the
403 private power producer, (B) result in an uncompensated loss for, or
404 unduly burden, such company, cooperative, utility or private power
405 producer, (C) impair the reliability of service of such company,
406 cooperative or utility, or (D) impair the ability of the company,
407 cooperative or utility to provide adequate service to its customers. The
408 authority shall issue a decision on such an application not later than
409 one hundred twenty days after the application is filed, provided, the
410 authority may, before the end of such period and upon notifying all
411 parties and intervenors to the proceeding, extend the period by thirty
412 days. If the authority does not issue a decision within one hundred
413 twenty days after receiving such an application, or within one hundred
414 fifty days if the authority extends the period in accordance with the
415 provisions of this subsection, the application shall be deemed to have
416 been approved. The requirements under subdivisions (3), (4) and (5) of
417 this subsection shall be subject to reasonable standards for operating
418 safety and reliability and the nondiscriminatory assessment of costs
419 against private power producers, approved by the Public Utilities
420 Regulatory Authority with respect to electric public service companies
421 or determined by municipal electric energy cooperatives and
422 municipal electric utilities.

423 (c) The Public Utilities Regulatory Authority, with respect to electric
424 public service companies, and each municipal electric energy
425 cooperative and municipal electric utility shall establish rates and
426 conditions of service for: (1) The purchase of electrical energy and
427 capacity made available by a private power producer; and (2) the sale
428 of backup electricity to a private power producer. The rates for
429 electricity purchased from a private power producer shall be based on
430 the full avoided costs of the electric public service company, municipal
431 electric energy cooperative or municipal electric utility, regardless of
432 whether the purchaser is simultaneously making sales to the private
433 power producer. Payment for energy and capacity purchased from a

434 private power producer by any such company, cooperative or utility
435 shall be pursuant to such rates and conditions or the terms of a
436 contract between the parties. The rates and conditions of service for the
437 purchase of energy and capacity established by the authority pursuant
438 to this subsection shall include specific schedules for pricing in long-
439 term contracts for the sale of electricity from small renewable power
440 projects to electric public service companies by private power
441 producers. Such schedules shall not exceed the present worth of the
442 projected avoided costs of the electric public service company over the
443 term of the contract. The authority shall apply to a proposed contract
444 filed with the authority after January 1, 1992, by a private power
445 producer for a small renewable power project the rates and conditions
446 of service, including the pricing schedule, in effect on the date the
447 private power producer submits its proposed contract to the authority,
448 regardless of the subsequent creation of differing schedules or the
449 subsequent amendment of existing schedules.

450 (d) When any person, firm or corporation proposes to enter into a
451 contract to sell energy and capacity as a private power producer, an
452 electric public service company, municipal electric energy cooperative
453 or municipal electric utility shall respond promptly to all requests and
454 offers and negotiate in good faith to arrive at a contract which fairly
455 reflects the provisions of this section and the anticipated avoided costs
456 over the life of the contract. Upon application by a private power
457 producer, the authority may approve a contract which provides for
458 payment of less than the anticipated avoided costs if, considering all of
459 the provisions, the contract is at least as favorable to the private power
460 producer as a contract providing for the full avoided costs. The
461 contract may extend for a period of not more than thirty years at the
462 option of the private power producer if it has a generating facility with
463 a capacity of at least one hundred kilowatts.

464 (e) The authority shall consider generating capacity available from
465 cogeneration technology and renewable energy resources in its
466 periodic reviews of electric public service companies and shall require
467 the companies to include the availability of such capacity in

468 applications for rate relief filed in accordance with section 16-19a.

469 (f) If a private power producer believes that an electric distribution
470 company has violated any provision of this section it may submit a
471 written petition alleging such violation to the authority. Upon receipt
472 of the petition, the authority shall fix a time and place for a hearing
473 and mail notice of the hearing to the parties in interest at least one
474 week in advance. Upon the hearing, the authority may, if it finds the
475 company has violated any such provision, prescribe the manner in
476 which it shall comply.

477 (g) After January 1, 1992, the authority shall approve each proposed
478 contract submitted by a private power producer for a small renewable
479 power project, with any modifications agreed to by the parties to the
480 contract, if the filing meets the standards for exemption from the
481 proposal process and for an approvable contract established pursuant
482 to section 16-6b, and is consistent with the pricing schedules adopted
483 pursuant to subsection (c) of this section. Nothing in this section shall
484 preclude a modification of such a contract if the parties to the contract
485 agree to the modification. Any such modification shall be approved by
486 the authority. The authority shall reconsider each decision issued
487 pursuant to this section between January 1, 1992, and June 29, 1993,
488 regarding such contracts and shall make any modifications to each
489 such decision necessary to ensure that each such decision conforms
490 with the provisions of this section.

491 (h) Not later than January 1, 2008, the Public Utilities Regulatory
492 Authority shall issue a final decision approving interconnection
493 standards that meet or exceed national standards of interconnectivity.
494 If the authority does not issue a final decision by October 1, 2008, each
495 electric distribution company, municipal electric energy cooperative
496 and municipal electric utility shall meet the standards set forth in Title
497 4, Chapter 4, Subchapter 9, "Net Metering and Interconnection
498 Standards for Class I Renewable Energy Systems" of the New Jersey
499 Administrative Code.]

500 (a) As used in this title, "PURPA" means the Public Utilities

501 Regulatory Policies Act of 1978, codified at 18 USC 824a-3, and its
502 implementing regulations, 18 CFR 292, as amended from time to time,
503 and "Qualifying Facilities" or "QF" has the same meaning as provided
504 in 18 CFR 292.101(b)(1).

505 (b) As used in section 16-243b, as amended by this act, "avoided
506 costs" means the costs avoided by an electric distribution company as a
507 result of purchasing power or capacity from a qualifying facility, as
508 approved by the Public Utilities Regulatory Authority in accordance
509 with section 16-243b, as amended by this act, and that do not result in
510 costs greater than those which the purchasing electric distribution
511 company would incur if such electric distribution company did not
512 make such purchases and instead purchased electricity or capacity
513 from the regional wholesale electricity markets.

514 Sec. 13. Section 16-243b of the general statutes is repealed and the
515 following is substituted in lieu thereof (*Effective from passage*):

516 [(a) As used in this title:

517 (1) "Private power production facility" means a facility which
518 generates electricity in the state (A) solely through the use of
519 cogeneration technology, provided the average useful thermal energy
520 output of the facility is at least twenty per cent of the total energy
521 output of the facility, (B) solely through the use of renewable energy
522 sources, or (C) through both only;

523 (2) "Useful thermal energy output" means the thermal energy made
524 available for use in any industrial or commercial process, or used in
525 any heating or cooling application;

526 (3) "Private power producer" means (A) a subsidiary of a gas public
527 service company which is not affiliated with an electric public service
528 company, or a subsidiary of a holding company controlling, directly or
529 indirectly, a gas public service company but not an electric public
530 service company, which generates electricity solely through ownership
531 of fifty per cent or less of a private power production facility or, with

532 the approval of the Public Utilities Regulatory Authority, through
533 ownership of one hundred per cent of a private power production
534 facility which (i) uses a source of energy other than gas as the primary
535 energy source of the facility, or (ii) uses gas as the primary energy
536 source of the facility and uses an improved and innovative technology
537 which furthers the state energy policy as set forth in section 16a-35k,
538 (B) a subsidiary of any other public service company or a subsidiary of
539 a holding company controlling, directly or indirectly, such a public
540 service company, which generates electricity solely through ownership
541 of fifty per cent or less of a private power production facility, (C) the
542 state, a political subdivision of the state or any other person, firm or
543 corporation other than a public service company or any corporation
544 which was a public service company, prior to July 1, 1981, and which
545 consents to be regulated as a public service company or a holding
546 company for a public service company, which generates electricity
547 solely through ownership of one hundred per cent or less of a private
548 power production facility, or (D) any combination thereof;

549 (4) "Private power provider" means any person, firm, corporation,
550 nonprofit corporation, limited liability company, governmental entity,
551 or other entity, including any public service company, holding
552 company, or subsidiary, which provides energy conservation or
553 demand management measures pursuant to section 16-243f and
554 regulations and orders issued hereunder, which replace the need for
555 electricity generating capacity that electric public service companies
556 would otherwise require;

557 (5) "Electricity conservation or demand management measures"
558 means the provision pursuant to this section and section 16-243f and
559 regulations and orders adopted hereunder by a private power
560 provider to an electric public service company or its customers of
561 equipment or services or both designed to conserve electricity or to
562 manage electricity load; and

563 (6) "Small renewable power project" means any private power
564 production facility which has a capacity of five megawatts or less and

565 is fueled by a renewable resource, as defined in section 16a-2, other
566 than wood.

567 (b) No provision of this section shall limit the jurisdiction of the
568 Public Utilities Regulatory Authority with regard to the effects on a
569 public service company of a private power producer which is an
570 affiliate or a subsidiary of the public service company.]

571 (a) Each electric distribution company shall file with the Public
572 Utilities Regulatory Authority for review and approval three pro
573 forma tariffs for the purchase of energy and capacity from eligible
574 qualifying facilities from which the electric distribution company is
575 obligated to purchase energy or capacity pursuant to 18 CFR 292.303.
576 Tariffs required pursuant to this section shall address each of the
577 following types of PURPA transactions: (1) Energy-only qualifying
578 facility sales; (2) capacity-only qualifying facility sales; and (3) energy
579 and capacity qualifying facility sales.

580 (b) The Public Utilities Regulatory Authority shall conduct an
581 uncontested proceeding to review tariffs submitted pursuant to
582 subsection (a) of this section. The authority shall approve tariffs that it
583 determines satisfy the requirements of PURPA and any other
584 requirements the authority deems appropriate.

585 (c) Each tariff submitted pursuant to subsection (a) of this section
586 shall establish a process by which qualifying facilities may elect to be
587 compensated either: (1) Based on avoided costs calculated at the time
588 of delivery; or (2) based on avoided costs forecasted at the time an
589 obligation to purchase arises pursuant to 18 CFR 292.303.

590 Sec. 14. Subdivision (24) of subsection (b) of section 7-233e of the
591 general statutes is repealed and the following is substituted in lieu
592 thereof (*Effective from passage*):

593 (24) To contract for the purchase or exchange of electricity produced
594 by a [person using cogeneration technology or renewable fuel
595 resources] Qualifying Facility, as defined in [section 16-1] 18 CFR

596 292.101(b)(1), or for the sale or exchange of electricity produced by the
597 municipal cooperative to such person, provided such purchase, sale or
598 exchange [is subject to the rates and conditions of service established
599 in accordance with section 16-243a] complies with the rates and
600 conditions of service established in 18 CFR 292;

601 Sec. 15. Section 12-408b of the general statutes is repealed and the
602 following is substituted in lieu thereof (*Effective from passage*):

603 On and after July 1, 1991, any person, firm or corporation who pays
604 a sales and use tax, which tax would not have been due prior to July 1,
605 1991, pursuant to subdivision (39) of section 12-412 of the general
606 statutes, revision of 1958, revised to January 1991, shall recover the tax
607 paid by (1) adding such tax to any amounts otherwise payable [under
608 a sales contract] pursuant to a tariff approved by the Public Utilities
609 Regulatory Authority pursuant to [subsection (d) of] section 16-243a,
610 as amended by this act, and (2) amortizing such tax, together with
611 interest at the rate paid on front-loaded payments, over the life of a
612 sales contract approved by the department pursuant to said subsection
613 (d).

614 Sec. 16. Subdivision (3) of subsection (a) of section 16-1 of the
615 general statutes is repealed and the following is substituted in lieu
616 thereof (*Effective from passage*):

617 (3) "Public service company" includes electric distribution, gas,
618 telephone, pipeline, sewage, water and community antenna television
619 companies and holders of a certificate of cable franchise authority,
620 owning, leasing, maintaining, operating, managing or controlling
621 plants or parts of plants or equipment, but shall not include towns,
622 cities, boroughs, any municipal corporation or department thereof,
623 whether separately incorporated or not, a [private power producer]
624 producer Qualifying Facility, as defined in [section 16-243b] 18 CFR
625 292.101(b)(1), or an exempt wholesale generator, as defined in 15 USC
626 79z-5a;

627 Sec. 17. Subdivision (23) of subsection (a) of section 16-1 of the

628 general statutes is repealed and the following is substituted in lieu
629 thereof (*Effective from passage*):

630 (23) "Electric distribution company" or "distribution company"
631 means any person providing electric transmission or distribution
632 services within the state, but does not include: (A) A [private power
633 producer] Qualifying Facility, as defined in [section 16-243b] 18 CFR
634 292.101(b)(1); (B) a municipal electric utility established under chapter
635 101, other than a participating municipal electric utility; (C) a
636 municipal electric energy cooperative established under chapter 101a;
637 (D) an electric cooperative established under chapter 597; (E) any other
638 electric utility owned, leased, maintained, operated, managed or
639 controlled by any unit of local government under any general statute
640 or special act; (F) an electric supplier; (G) an entity approved to
641 submeter pursuant to section 16-19ff; or (H) a municipality, state or
642 federal governmental entity authorized to distribute electricity across a
643 public highway or street pursuant to section 16-243aa;

644 Sec. 18. Subsection (a) of section 16-50i of the general statutes is
645 repealed and the following is substituted in lieu thereof (*Effective from*
646 *passage*):

647 (a) "Facility" means: (1) An electric transmission line of a design
648 capacity of sixty-nine kilovolts or more, including associated
649 equipment but not including a transmission line tap, as defined in
650 subsection (e) of this section; (2) a fuel transmission facility, except a
651 gas transmission line having a design capability of less than two
652 hundred pounds per square inch gauge pressure or having a design
653 capacity of less than twenty per cent of its specified minimum yield
654 strength; (3) any electric generating or storage facility using any fuel,
655 including nuclear materials, including associated equipment for
656 furnishing electricity but not including an emergency generating
657 device, as defined in subsection (f) of this section or a facility (A)
658 [owned and operated by a private power producer, as defined in
659 section 16-243b, (B) which is a qualifying small power production
660 facility or a qualifying cogeneration facility under the Public Utility

661 Regulatory Policies Act of 1978, as amended] which is a Qualifying
662 Facility, as defined in 18 CFR 292.101(b)(1), or a facility determined by
663 the council to be primarily for a producer's own use, and [(C)] (B)
664 which has, in the case of a [facility] Qualifying Facility utilizing
665 renewable energy sources, a generating capacity of one megawatt of
666 electricity or less and, in the case of a [facility] Qualifying Facility
667 utilizing cogeneration technology, a generating capacity of twenty-five
668 megawatts of electricity or less; (4) any electric substation or
669 switchyard designed to change or regulate the voltage of electricity at
670 sixty-nine kilovolts or more or to connect two or more electric circuits
671 at such voltage, which substation or switchyard may have a substantial
672 adverse environmental effect, as determined by the council established
673 under section 16-50j, and other facilities which may have a substantial
674 adverse environmental effect as the council may, by regulation,
675 prescribe; (5) such community antenna television towers and head-end
676 structures, including associated equipment, which may have a
677 substantial adverse environmental effect, as said council shall, by
678 regulation, prescribe; and (6) such telecommunication towers,
679 including associated telecommunications equipment, owned or
680 operated by the state, a public service company or a certified
681 telecommunications provider or used in a cellular system, as defined
682 in [the Code of Federal Regulations Title 47, Part 22] 47 CFR 22, as
683 amended, which may have a substantial adverse environmental effect,
684 as said council shall, by regulation, prescribe;

685 Sec. 19. Section 16a-49 of the general statutes is repealed and the
686 following is substituted in lieu thereof (*Effective from passage*):

687 [(a)] The Public Utilities Regulatory Authority shall require each gas
688 and electric public service company to implement a cost effective
689 conservation and load management program consistent with
690 integrated resource planning principles. As part of each conservation
691 and load management program, the authority shall require specific
692 programs to target the needs of manufacturers. The authority shall
693 allow the gas or electric public service company either: (1) To earn a
694 return on prudently incurred multiyear conservation and load

695 management expenditures on programs and measures approved by
696 the authority included in the company's rate base and successfully
697 implemented by the company at a rate at least one percentage point
698 but no more than five percentage points higher than such company's
699 rate of return otherwise found to be reasonable; or (2) authorize a
700 return of at least one percentage point but no more than five
701 percentage points on the company's prudently incurred conservation
702 and load management expenditures treated as operating costs on
703 programs and measures approved by the authority and successfully
704 implemented by the company. For the purposes of this section,
705 "conservation and load management expenditures" shall include all
706 prudent expenditures, approved by the authority by gas or electric
707 public service companies designed to conserve energy or manage gas
708 or energy load.

709 [(b) The authority may authorize an electric public service company
710 a return on such company's expenditures in acquiring energy
711 conservation or load management measures, approved by the
712 authority, from private power providers, as defined in section 16-
713 243b.]

714 Sec. 20. Section 49-4c of the general statutes is repealed and the
715 following is substituted in lieu thereof (*Effective from passage*):

716 Any mortgage entered into subsequent to July 1, 1986, between a
717 [private power producer, as defined in section 16-243b, or the owner or
718 operator of a qualifying facility] Qualifying Facility, as defined in [Part
719 292 of Title 18 of the Code of Federal Regulations] 18 CFR 292, or a
720 guarantor of any of their respective obligations, as mortgagor, and an
721 electric distribution company, as defined in section 16-1, as amended
722 by this act, as mortgagee, shall be valid to secure all obligations then
723 existing or thereafter arising of the mortgagor to the mortgagee under
724 an electricity purchase [agreement] tariff, including, without
725 limitation, recovery of amounts paid to [the private power producer
726 or] the owner or operator of a [qualifying facility] Qualifying Facility
727 by the mortgagee in excess of the mortgagee's avoided costs, as

728 defined in accordance with tariffs approved by the Public Utilities
729 Regulatory Authority pursuant to section 16-243a, as amended by this
730 act, and all other damages for failure to deliver electric energy or
731 capacity or other breach of an electricity purchase agreement,
732 including, without limitation, the net replacement cost of the capacity
733 being secured by such mortgage, together with accrued interest, if any,
734 as computed in accordance with the terms of the electricity purchase
735 agreement or the mortgage, and under a guarantee of such obligations
736 or obligations created by the mortgage, and shall have priority over the
737 rights of others who shall acquire any rights in the property covered
738 by such mortgage subsequent to the recording of the mortgage in the
739 land records of the town in which the mortgaged property is situated
740 provided: (1) The electricity purchase [agreement] tariff is substantially
741 in the form approved by the Public Utilities Regulatory Authority
742 pursuant to section 16-243a, as amended by this act, and shall have
743 been entered into by the mortgagor and mortgagee prior to or
744 simultaneously with or subsequent to the execution and delivery of the
745 mortgage, (2) the caption to the mortgage shall contain the words
746 "Open-End Mortgage" and ["Electricity Purchase Agreement"]
747 "Electricity Purchase Tariff", (3) the mortgage shall state that it is
748 entered into to secure the mortgagor's obligations to the mortgagee
749 under an electricity purchase [agreement] tariff or under a guarantee
750 of any electricity purchase [agreement] tariff obligations and shall
751 recite either the address of an office of the mortgagee or its assignee in
752 the state at which a copy of the electricity purchase [agreement] tariff
753 is on file and may be inspected by the public during normal business
754 hours or that the electricity purchase [agreement] tariff has been
755 recorded, as an exhibit to the mortgage or otherwise, on or before the
756 date the mortgage is recorded, in the land records of the town in which
757 the mortgaged property is situated, provided the electricity purchase
758 [agreement] tariff shall be so recorded, (4) the amount of the obligation
759 from time to time secured by the mortgage may be determined or
760 reasonably approximated on the basis of records maintained by the
761 mortgagee or its assignee in the state, which records and an estimate of
762 the amount claimed by the mortgagee to be secured are made available

763 to the public with reasonable promptness upon written request, and
 764 (5) the mortgage states the maximum amount which it shall secure.
 765 Nothing in this section shall invalidate any mortgage which would be
 766 valid without this section. For purposes of this section, ["electricity
 767 purchase agreement"] "electricity purchase tariff" means [a contract or]
 768 an agreement to purchase and sell electric energy or capacity by and
 769 between [a private power producer, as defined in section 16-243b, or]
 770 the owner or operator of a [qualifying facility] Qualifying Facility, as
 771 defined in [Part 292 of Title 18 of the Code of Federal Regulations] 18
 772 CFR 292.101(b)(1), and an electric distribution company, as defined in
 773 section 16-1, as amended by this act.

774 Sec. 21. Sections 16-243d, 16-243f and 16-243g of the general statutes
 775 are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-35
Sec. 2	<i>from passage</i>	16-7
Sec. 3	<i>from passage</i>	16-8a
Sec. 4	<i>from passage</i>	16-11
Sec. 5	<i>from passage</i>	16-16
Sec. 6	<i>from passage</i>	16-41(a)
Sec. 7	<i>from passage</i>	16-280e
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	16-356
Sec. 12	<i>from passage</i>	16-243a
Sec. 13	<i>from passage</i>	16-243b
Sec. 14	<i>from passage</i>	7-233e(b)(24)
Sec. 15	<i>from passage</i>	12-408b
Sec. 16	<i>from passage</i>	16-1(a)(3)
Sec. 17	<i>from passage</i>	16-1(a)(23)
Sec. 18	<i>from passage</i>	16-50i(a)
Sec. 19	<i>from passage</i>	16a-49

Sec. 20	<i>from passage</i>	49-4c
Sec. 21	<i>from passage</i>	Repealer section

Statement of Legislative Commissioners:

In Sec. 11(a) and in Sec. 14, "Part" was deleted for consistency with standard drafting conventions.

ET *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

There is a potential revenue gain to the General Fund resulting from the bill, which expands the Public Utilities Regulatory Authority's (PURA) jurisdiction over persons involved in the transportation of gas. The bill provides PURA the authority to fine those involved in the transportation of gas amounts currently permitted by law (up to \$10,000 per violation). It also increases the maximum penalty for violations of natural gas pipeline safety from an existing \$200,000 to \$213,000 (or \$2.1 million for a series of violations). Any such revenue gain to the General Fund as a result of the bill will vary based on the number of violations enforced by PURA, and the associated fines levied.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 960**

AN ACT CONCERNING THE PUBLIC UTILITIES REGULATORY AUTHORITY'S REVIEW OF CLAIMS ARISING FROM CONTRACTS PREVIOUSLY APPROVED BY THE AUTHORITY, PERSONS INVOLVED IN THE TRANSPORTATION OF NATURAL GAS AND REQUIREMENTS FOR OPERATOR QUALIFICATION OF INDIVIDUALS PERFORMING COVERED TASKS ON A PIPELINE FACILITY, CALL BEFORE YOU DIG PROGRAM VIOLATIONS AND FINES AND THE PUBLIC UTILITIES REGULATORY POLICIES ACT.

SUMMARY

This bill makes various changes to the statutes regarding the Public Utilities Regulatory Authority (PURA). Among other things, the bill:

1. requires the parties to certain PURA-approved contracts to bring their first dispute arising from the contract before PURA instead of Superior Court;
2. expands PURA's authority over certain gas transportation entities (e.g., propane systems and municipal gas distribution systems) to (a) give PURA access to their facilities, (b) provide whistleblower protections to their employees, (c) allow PURA to order them to make certain reasonable improvements or repairs, (d) require them to notify PURA about certain accidents, and (e) allow PURA to impose certain penalties on them;
3. increases the maximum penalty imposed for certain natural gas pipeline safety violations;
4. establishes certain evaluation and training requirements for individuals who perform work on a pipeline facility that affects the pipeline's safety or integrity;

5. requires natural gas distribution companies to (a) use geographic information systems to map their pipeline facilities and (b) if PURA determines that it will be beneficial, provide PURA with remote real-time read-only access to their electronic systems;
6. requires propane companies to provide PURA with certain information about their propane distribution systems; and
7. requires the penalties for certain violations of the “Call Before You Dig” law’s marking requirements to be directly paid by the entity being penalized by PURA, without recovering the penalty from a third party (e.g., a contractor working for the penalized entity).

Lastly, the bill (1) repeals a generally obsolete requirement for electric companies to purchase power from non-utility cogeneration and renewable energy producers at a rate equal to the company’s avoided cost (i.e., the amount that the company would have had to spend to generate the power itself or buy from another source) and (2) replaces it with similar requirements under the federal Public Utilities Regulatory Policies Act of 1978 (PURPA) with rates set under PURA-approved pro forma tariffs. It also makes related conforming and technical changes.

EFFECTIVE DATE: Upon passage

§ 1 – PURA REVIEW OF CONTRACTS

The bill requires the parties to certain PURA-approved contracts to bring their first dispute arising from the contract to PURA, instead of Superior Court as required under current law. A party may subsequently appeal PURA’s ruling on the first dispute or decision to Superior Court.

The bill’s requirement applies to contracts that meet the following criteria:

1. PURA approved the contract after the bill is enacted and under

certain statutory authority (see Table 1 below),

2. a public service company is a party to the contract,
3. the contract price is funded by ratepayers, and
4. the contract's purpose is for the public service company to purchase products and services for ratepayers' benefit.

Table 1 shows the statutory authority for the PURA-approved contracts covered by the bill.

Table 1: Statutory Authority for PURA-Approved Contracts

Statute (CGS §)	Description
16-19hh	Implementation of flexible pricing and rates; special contracts for electric service; gas rates for certain manufacturers
16-243m	Measures to reduce federally mandated congestion charges
16-243u	Plan to build peaking generation
16-244r	Long-term contracts regarding zero emission generation projects; solicitation of Class I generation projects; renewable energy credits
16-244s	Zero emission generation projects solicitation plan; procurement plan; noncompliance fee
16-244t	Power purchase contracts regarding low-emission generation projects; renewable energy credits
16-244y	Fuel cell electricity generation; proposals to acquire, enter into power purchase agreements or provide financial incentives
16a-3b	Implementation of the Integrated Resources Plan
16a-3f	Solicitation of Class I renewable energy sources
16a-3g	Solicitation of Class I renewable energy sources or large-scale hydropower
16a-3h	Solicitation regarding run-of-the-river hydropower, landfill methane gas, biomass, fuel cell, offshore wind, anaerobic digestion, or energy storage systems
16a-3i	Determination of adequacy of Class I renewable energy sources; solicitation regarding Class I renewable energy sources; use of large-scale hydropower in renewable portfolio standards
16a-3j	Regional and independent solicitation regarding passive demand response, Class I renewable energy sources, Class III sources, large-scale hydropower, or natural gas storage and transportation capacity
16a-3k	Definitions
16a-3l	Solicitations regarding Class I renewable energy sources; consideration of environmental impacts; impacts to prime farmland and core forests; reuse

	of brownfields and landfills
16a-3m	Appraisal regarding nuclear power generating facilities; solicitation regarding zero-carbon electricity generating resources

The bill allows a party to petition PURA for a declaratory ruling or apply for review under the bill or a statute that governs the contract. Regardless of the Uniform Administrative Procedure Act’s provision on declaratory rulings, PURA may not initiate a proceeding to review one of these contracts on its own motion.

The bill requires PURA to review any of these contract claims and decide them by issuing a declaratory ruling or final decision in a contested case proceeding, including ordering legal and equitable contract remedies. A party to the contracts may appeal PURA’s ruling or decision to Superior Court.

§§ 2-6 — PURA JURISDICTION OVER GAS TRANSPORTATION

Current law gives PURA jurisdiction over public services companies, which includes investor-owned natural gas distribution companies (e.g., Eversource). The bill extends certain elements of this jurisdiction to “persons involved in the transportation of gas,” which, under the bill’s definitions, include a wider array of gas transporting entities, such as municipal gas distribution systems and propane systems.

Under the bill:

1. “persons” are any individual, firm, joint venture, partnership, corporation, limited liability company, association, municipality, or cooperative association, including any of their trustees, receivers, assignees, or personal representatives;
2. “gas” is natural gas, flammable gas, or toxic or corrosive gas; and
3. “transportation of gas” is the gathering, transmission, or distribution of gas by pipeline or its storage.

PURA Access to Facilities (§ 2)

Current law allows PURA, or its designees, to access a public utility company's or retail electric supplier's premises, buildings, or other places that they own or control. The bill expands this access to also include their "plants" and persons involved in the transportation of gas. By law a company's "plants" include all real estate, buildings, tracks, pipes, mains, poles, wires and other fixed or stationary construction and equipment, wherever located, used in the conduct of the business of the company (CGS § 16-1).

Whistleblower Protections (§ 3)

The bill extends PURA's whistleblower protections to employees of (1) persons involved in the transportation of gas and (2) entities that directly or indirectly provide goods to them. Among other things, this:

1. prohibits these employers from taking any retaliatory actions against their employees for disclosing the substantial malfeasance of a person involved in the transportation of gas;
2. allows their employees to inform PURA about any prohibited retaliatory actions or malfeasance in management;
3. allows PURA to investigate and issue orders, impose civil penalties, award attorney's fees and order payment for back pay;
4. voids any agreement between the employees and employers if it discourages the employee from presenting a written complaint or testifying about the malfeasance; and
5. requires a notice to be posted in these employees' workplaces, in accordance with PURA's regulations, which informs them about the whistleblower protections.

PURA Authority to Order Improvements (§ 4)

Current law generally (1) requires PURA to keep fully informed about the conditions of a public service company's plant, equipment and operations, in respect to its adequacy, suitability, and safety, and (2) authorizes PURA to order a company to make reasonable

improvements, repairs, or alterations in its plants, equipment, or operations, that may be reasonably necessary for the public interest.

The bill extends this requirement and authority to include persons involved in the transportation of gas.

Accident Notification Requirement (§ 5)

As current law requires for public service companies and retail electric suppliers, the bill requires persons involved in the transportations of gas to notify PURA, as soon as reasonably possible, about any accident that (1) was, or may have been, connected with or due to the operation of its property and (2) involved personal injuries or public safety. As under current law, if the notice is given in a non-written form, it must be confirmed in writing within five days after the accident. They must also submit a monthly written report on minor accidents to PURA. A failure to comply with these requirements is subject to up to a \$500 fine per offense.

Enforcement (§ 6)

As current law provides for other PURA-regulated entities, the bill requires persons involved with the transportation of gas to obey, observe, and comply with all applicable provisions of the laws for public service companies and PURA's applicable regulations and orders. It requires violators to be fined, by PURA's order, under the applicable statutory penalty or, if no penalty is prescribed, up to \$10,000 for each offense. By law, each distinct violation is a separate offense, and in cases of continued violations, each day is a separate offense.

§ 7 – PENALTIES FOR VIOLATIONS OF NATURAL GAS PIPELINE LAWS

Under current law, entities that violate the federal law or regulations on natural gas pipeline safety (49 U.S.C. Chapter 601) or state law or regulations on natural gas pipelines are subject to a civil penalty up to the maximum allowed under the federal law (\$1,000; \$50,000; or \$200,000 per violation, depending on the violation). The bill

instead allows the penalty to be up to the higher of the maximum allowed under (1) the federal law or (2) federal regulations on pipeline safety (currently \$213,268 for each violation and \$2,132,679 for any related series of violations).

Existing law, unchanged by bill, allows PURA to compromise over a civil penalty after considering the criteria established in federal regulations (e.g., the gravity of the violation or the violator's history of prior violations).

§ 8 – OPERATOR EVALUATION AND TRAINING

The bill requires each operator (a person who engages in the transportation of gas) to do the following:

1. evaluate someone who the operator believes did not correctly perform a covered task (an activity on a pipeline facility that affects the pipeline's safety or integrity);
2. provide training that ensures that those performing covered tasks have the necessary knowledge and skills to perform them in a way that ensures the safe operation of pipeline facilities;
3. document the training requirements in a plan, including each covered task's minimum training time;
4. conduct evaluations more than 48 hours after training;
5. ensure that the evaluation process (a) is performed by operator personnel or independent third-party contractors and (b) evaluates task-specific abnormal operating conditions; and
6. ensure that (a) inspectors are qualified for the covered tasks they are inspecting, (b) the training and evaluation process is specific to the operator's plans, procedures, and standards, and (c) the written qualification program in the evaluation includes a training and evaluation process for personnel performing engineering tasks.

Under the bill, an “evaluation” is a process, established and documented by the operator, to determine someone’s ability to perform a covered task by (1) written or oral examination and (2) observation while performing on the job during simulations.

The above requirements are in addition to federal regulations’ minimum requirements for operator qualification of people performing covered tasks on pipeline facilities.

§ 9 – GIS MAPPING OF PIPELINE FACILITIES AND PURA ACCESS TO ELECTRONIC SYSTEMS

The bill requires anyone involved in the transportation of gas, but not propane, to:

1. use geographic information systems to map all of their pipeline facilities (i.e., new and existing pipeline rights-of-way and any equipment, facility, or building used in the transportation of gas or the treatment of gas during the course of transportation) and
2. provide remote real-time read-only access to all of their electronic systems, if PURA determines that it will be beneficial in keeping PURA fully informed about the person’s plant, equipment, and operations.

§ 10 – PROPANE SYSTEM INFORMATION

The bill requires anyone involved in the transportation of gas, but not natural gas, to provide PURA with any information it deems relevant about the person’s propane distribution systems under PURA’s jurisdiction. Starting by October 1, 2019, the information must be submitted annually on a PURA-prescribed form. Any changes to the information must be resubmitted to PURA within 30 days of the change.

§ 11 – CALL BEFORE YOU DIG PENALTIES

Existing law requires companies and individuals engaging in excavation, discharge of explosions, or demolition to comply with certain requirements (i.e., “Call Before You Dig”). Anyone who fails to

comply with these requirements must pay the state a civil penalty of up to \$40,000.

The bill requires the penalty for a violation involving a public utility's failure to properly or timely mark an underground facility's approximate location to be paid by the person, public agency, or public utility to whom the notice from PURA is addressed. If the person, public agency, or utility recovers any portion of the penalty from a third party (e.g., a contractor that failed to make the markings), the bill allows PURA to direct them to forfeit the recovered amount, as provided in the notice.

§§ 12-21 – PRIVATE POWER PRODUCERS & PURPA

Current law, enacted before the state's deregulation of the electricity market, generally requires the state's electric distribution companies (EDCs, i.e., Eversource and United Illuminating) and municipal electric companies to purchase electricity and generating capacity offered by "private power producers" (certain non-utility generators that use renewable energy or cogeneration to generate their power). The companies must pay these producers a rate equal to the company's avoided cost (i.e., the amount that the company would have had to spend to generate the power itself or buy from another source).

The bill replaces this generally obsolete law with references to, and requirements under, the federal Public Utilities Regulatory Policies Act of 1978 (PURPA), which similarly requires electric utilities to purchase their power from non-utility cogeneration and renewable energy producers.

To establish the rates for these purchases, the bill requires each EDC to file with PURA three pro forma tariffs for purchasing energy and capacity from the eligible qualifying facilities that the EDCs must purchase energy or capacity from under PURPA. Under the bill, these facilities are cogeneration facilities or small power production facilities that qualify under PURPA regulations.

The tariffs required by the bill must address three types of PURPA transactions: (1) energy-only qualifying facility sales, (2) capacity-only qualifying facility sales, and (3) energy and capacity qualifying facility sales. Each tariff must establish a process by which qualifying facilities may choose to be compensated based on their avoided costs (1) calculated at the time of delivery or (2) forecasted when an obligation to purchase arises under federal regulations.

Under the bill, “avoided costs” are the costs avoided by an EDC due to purchasing power or capacity from a qualifying facility, as approved by PURA. They cannot result in costs that exceed the EDC’s costs if it had not made such purchases and instead purchased electricity or capacity from regional wholesale electricity markets.

PURA must conduct an uncontested proceeding to review the tariffs and it must approve them if they satisfy PURPA’s requirements and any other requirements PURA deems appropriate.

The bill repeals generally obsolete requirements for (1) the EDCs and municipal electric companies to meet New Jersey's interconnection standards if PURA does not approve its own standards for interconnecting with private power producers and (2) PURA to adopt regulations to determine how private companies can provide conservation and load management services to meet electric utility capacity demands either instead of, or in addition to, generating facilities.

The bill also makes various technical and conforming changes (e.g., replacing references to “private power producers” with “qualifying facilities” under PURPA).

BACKGROUND

Related Bill

SB 678, reported favorably by the Energy and Technology Committee, requires PURA to adopt regulations that require certain markings made under Call Before Your Dig to begin to fade within three months.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 25 Nay 0 (03/19/2019)