
OLR Bill Analysis

sHB 6409

AN ACT CONCERNING THE SOLICITATION OF BIOGAS INJECTION PROPOSALS FROM ANAEROBIC DIGESTION FACILITIES.

SUMMARY

This bill allows the Department of Energy and Environmental Protection (DEEP) commissioner, in consultation with certain other officials, to solicit proposals from anaerobic digestion facilities to make biogas suitable for injecting into the state's natural gas distribution system. The commissioner may select proposals that meet certain requirements (e.g., are in ratepayers' best interest and promote the statewide solid waste management plan's goals) and direct natural gas utility companies to enter into long-term agreements to purchase a selected facility's biogas. These agreements must be reviewed and approved by the Public Utilities Regulatory Authority (PURA).

The bill requires that the gas companies recover their net costs for purchasing the biogas through adjustments to their customers' gas bills. It requires the companies to recover their related infrastructure costs from the biogas supplier through a contribution in aid of construction charge or other provision of the agreement. But PURA-approved costs that are not recoverable from the supplier must be recovered through an infrastructure rate tracking mechanism. The bill also requires that DEEP's reasonable costs associated with the solicitations be recoverable from gas company ratepayers.

Lastly, the bill requires any dispute arising from a contract approved by PURA under the bill to be brought to PURA, which may decide it by issuing a declaratory ruling or a final decision in a contested case proceeding.

EFFECTIVE DATE: July 1, 2021

DEEP SOLICITATION AND PROPOSAL SELECTION

The bill requires the DEEP commissioner, when soliciting the proposals, to do so in consultation with the Office of Consumer Counsel and the attorney general. She may hold one or multiple solicitations. Under the bill, an “anaerobic digestion facility” is a facility that (1) produces by-products that provide biogas derived from decomposing farm-generated organic waste or source-separated organic material and (2) has a solid waste facility permit.

The bill allows the commissioner to select proposals from facilities that do not exceed by-product generated by 300,000 tons of organic waste annually (presumably limiting the program to facilities that generate by-product from less than 300,000 tons of organic waste annually). When selecting proposals, she must consider whether a proposal:

1. is in natural gas ratepayers’ best interest;
2. promotes the policy goals outlined in the statewide solid waste management plan;
3. is consistent with the state’s requirement to reduce greenhouse gas emissions; and
4. promotes natural gas distribution system benefits.

She must also consider any positive impacts on the state’s economic development, including those on the agricultural industry, and the relevant facility’s characteristics, including whether the proposed gas conditioning system and biogas complies with state interconnection standards for biogas adopted by PURA. She may also consider additional factors.

Gas Purchasing Agreements

The bill allows the commissioner to direct gas utility companies, on behalf of the state’s gas companies’ customers, to enter into a purchasing agreement with a selected proposal’s biogas supplier.

The agreements may have a term of up to 20 years and must be reviewed and approved by PURA. The bill requires PURA to finish the review within 120 days after the agreement is filed. It must approve the agreement if it is in ratepayers' best interest and meets the solicitation proposal criteria (i.e., the biogas is suitable for injecting into the distribution system and comes from facilities that generate by-product from less than 300,000 tons of organic waste annually).

COST RECOVERY

Gas Company Costs

The bill requires that a gas company's reasonable costs incurred in negotiating and executing an agreement, and the net costs for the biogas under it, be recovered from all the company's customers through the purchased gas adjustment clause on gas bills. Any net revenue from selling products purchased under the agreement must be credited to customers through the same fully reconciling rate component for all the company's customers. Any of these net costs or revenues must be apportioned proportionally to each contracting gas company's annual revenues.

The bill also requires that a gas company's costs related to building, operating, and maintaining the infrastructure arising from the agreement be recovered from the biogas supplier through a contribution in aid of construction charge or other provision of the agreement. Any costs not recoverable from the biogas supplier must be identified and approved by PURA when it approves the gas purchasing agreement. These approved and prudently incurred costs must be recovered through an existing rate tracking mechanism for recovering natural gas infrastructure investments or, if no mechanism currently exists, through a new rate tracking mechanism PURA establishes.

Under the bill, a gas company can choose to (1) use the renewable natural gas it procured through an agreement to meet its customers' needs or (2) sell it into applicable markets or through bilateral contracts with third parties, with the net benefits or costs reflected in the purchased gas adjustment clause on their customers' bills.

DEEP Costs

The bill allows the DEEP commissioner to retain consultants to help implement its provisions, including evaluating the proposals. It requires that all reasonable costs associated with a solicitation and review be recoverable from ratepayers through the same fully reconciling rate component for all customers of the gas companies. These costs must be recoverable even if the commissioner does not select any proposals.

CONTRACT DISPUTES

The bill requires that contract disputes for contracts approved under the bill's provisions be brought to PURA. A party may petition PURA for a declaratory ruling or apply for review. The bill prohibits PURA from initiating a contract review proceeding on its own.

Under the bill, PURA must review any of these contract disputes and may decide it by issuing a declaratory ruling or a final decision in a contested case proceeding and ordering legal and equitable remedies. A party to the contract may appeal the declaratory ruling or final decision to the Superior Court.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/02/2021)