



House of Representatives

General Assembly

File No. 72

January Session, 2021

Substitute House Bill No. 6409

House of Representatives, March 17, 2021

The Committee on Energy and Technology reported through REP. ARCONTI of the 109th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. (NEW) (*Effective July 1, 2021*) (a) For purposes of this
2 section, "anaerobic digestion facility" means a facility that obtained a
3 permit pursuant to section 22a-208a of the general statutes and produces
4 by-products that provide biogas derived from the decomposition of
5 farm-generated organic waste or source-separated organic material.

6 (b) The Commissioner of Energy and Environmental Protection, in
7 consultation with the Office of Consumer Counsel and the Attorney
8 General, may solicit proposals, in one solicitation or multiple
9 solicitations, from anaerobic digestion facilities that will make biogas of
10 a quality suitable for injection into the natural gas distribution system
11 in the state. The commissioner may select proposals from such
12 anaerobic digestion facilities that do not exceed by-product that is
13 generated by three hundred thousand tons of organic waste annually.

14 (c) In making a selection of such proposals, the commissioner shall
15 consider factors including, but not limited to: (1) Whether the proposal
16 is in the best interest of natural gas ratepayers; (2) whether the proposal
17 promotes the policy goals outlined in the state-wide solid waste
18 management plan developed pursuant to section 22a-241a of the general
19 statutes; (3) any positive impacts on the state's economic development,
20 including any positive impacts on the state's agricultural industry; (4)
21 whether the proposal is consistent with the requirements to reduce
22 greenhouse gas emissions in accordance with section 22a-200a of the
23 general statutes; (5) the characteristics of a relevant facility that produces
24 renewable natural gas, including whether the proposed gas
25 conditioning system or systems and the biogas complies with the
26 interconnection standards developed in accordance with section 18 of
27 public act 19-35; and (6) whether the proposal promotes natural gas
28 distribution system benefits.

29 (d) The commissioner may direct the gas companies, as defined in
30 section 16-1 of the general statutes, to enter into gas purchase
31 agreements for biogas suppliers selected pursuant to this section for
32 periods of not more than twenty years on behalf of all customers of the
33 state's gas companies.

34 (e) Any gas purchase agreement entered into pursuant to this section
35 shall be subject to review and approval by the Public Utilities
36 Regulatory Authority. Such review shall be completed not later than one
37 hundred twenty days after the date such agreement is filed with the
38 authority. The authority shall review and approve such gas purchase
39 agreement if it meets the solicitation proposal criteria pursuant to
40 subsection (b) of this section and is in the best interest of the ratepayers.

41 (f) (1) The reasonable costs incurred by the gas companies in
42 negotiating and executing such gas purchase agreements and the net
43 costs for the supply of biogas under any such gas purchase agreement
44 shall be recovered from all customers of such company through the
45 purchased gas adjustment clause pursuant to section 16-19b of the
46 general statutes. Any net revenue from the sale of products purchased

47 in accordance with the gas purchase agreement entered into pursuant
48 to this section shall be credited to customers through the same fully
49 reconciling rate component for all customers of the contracting gas
50 company. Any such net costs or net revenues, as applicable, of any such
51 gas purchase agreement shall be apportioned in proportion to the
52 revenues of each contracting gas company as reported to the authority
53 pursuant to section 16-49 of the general statutes for the most recent fiscal
54 year.

55 (2) The gas companies shall recover any costs incurred related to
56 constructing, operating and maintaining the infrastructure arising from
57 such gas purchase agreement from the biogas supplier through a
58 contribution in aid of construction, or other provision, of the gas
59 purchase agreement. Any costs not recoverable from the biogas supplier
60 shall be identified and approved by the authority at the time the
61 authority approves any such gas purchase agreement. Such approved
62 and prudently incurred costs shall be recovered in any existing rate
63 tracking mechanism for the recovery of natural gas infrastructure
64 investments, or, if no mechanism currently exists, a newly established
65 rate tracking mechanism established by the authority.

66 (g) A gas company may elect to (1) use any renewable natural gas
67 procured under this section to meet the needs of its customers, or (2) sell
68 any such renewable natural gas into applicable markets or through
69 bilateral contracts with third parties with the net benefits or costs
70 reflected in the purchased gas adjustment clause pursuant to section 16-
71 19b of the general statutes.

72 (h) The commissioner may retain consultants to assist in
73 implementing this section, including, but not limited to, the evaluation
74 of proposals submitted pursuant to this section. All reasonable costs
75 associated with the commissioner's solicitation and review of proposals
76 pursuant to this section shall be recoverable through the same fully
77 reconciling rate component for all customers of the gas companies. Such
78 costs shall be recoverable even if the commissioner does not select any
79 solicitation proposals pursuant to this section.

80 (i) (1) Any dispute arising from a contract that is approved by the
 81 authority pursuant to this section shall be brought to the authority. A
 82 party may petition the authority for a declaratory ruling or make an
 83 application for review pursuant to this subsection. Notwithstanding
 84 subsection (a) of section 4-176 of the general statutes, the authority may
 85 not on its own motion initiate a proceeding to review a contract entered
 86 into pursuant to this section.

87 (2) The authority shall review any contract dispute brought pursuant
 88 to subdivision (1) of this subsection. The authority may decide any such
 89 contract dispute by issuing a declaratory ruling or a final decision in a
 90 contested case proceeding, and may order legal and equitable remedies.
 91 Any party to the contract shall have the right to appeal to the Superior
 92 Court from any such declaratory ruling or final decision issued
 93 pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	New section

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: None

Municipal Impact: None

Explanation

There is no fiscal impact resulting from the bill, which allows the Department of Energy and Environmental Protection (DEEP) to solicit proposals for biogas from anaerobic digestion facilities. The bill specifies that any costs borne by DEEP or the Public Utilities Regulatory Authority from reviewing solicitation proposals, including the hiring of consultants, can be recovered through ratepayer recoveries.

While the bill requires that any proposal selected by DEEP must be in the best interest of ratepayers, it allows any net costs or revenues from gas companies purchasing biogas to be reconciled during the ratemaking process.

The Out Years

State Impact: None

Municipal Impact: None

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)