



# House of Representatives

General Assembly

**File No. 167**

January Session, 2021

House Bill No. 6524

*House of Representatives, March 29, 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 bill ought to pass.

## **AN ACT CONCERNING THE SOLICITATION OF NEW FUEL CELL ELECTRICITY GENERATION PROJECTS.**

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

1 Section 1. Section 16-244y of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 [An electric distribution company may submit to the Public Utilities  
4 Regulatory Authority for approval one or more plans to acquire new  
5 fuel cell electricity generation that began operation on or after July 1,  
6 2017. Any such plan shall utilize a competitive process for the purpose  
7 of providing distribution system benefits, including, but not limited to,  
8 avoiding or deferring distribution capacity upgrades, and enhancing  
9 distribution system reliability, including, but not limited to, voltage or  
10 frequency improvements. Any such plan shall give preference to  
11 proposals that make efficient use of existing sites and supply  
12 infrastructure. In the event that the authority approves such plan, an  
13 electric distribution company may submit to the authority (1) one or  
14 more proposals to build, own and operate new fuel cell generation, (2)

15 proposed power purchase agreements negotiated with persons to build,  
16 own and operate new fuel cell generation, or (3) proposals to provide  
17 financial incentives for the installation of combined heat and power  
18 systems powered by fuel cells, provided any such incentives shall be  
19 consistent with the Comprehensive Energy Strategy pursuant to section  
20 16a-3d. The facilities acquired, built pursuant to said power purchase  
21 agreements and that receive said financial incentives under this section  
22 shall not exceed a total nameplate capacity rating of thirty megawatts in  
23 the aggregate. Any proposal submitted by an electric distribution  
24 company to build, own and operate a fuel cell shall include the electric  
25 distribution company's full projected costs and shall demonstrate to the  
26 authority that such facility is not supported in any form of cross  
27 subsidization by affiliated entities. The authority shall evaluate any  
28 proposal submitted pursuant to this section in a manner that is  
29 consistent with the principles of sections 16-19 and 16-19e and may  
30 approve one or more proposals if it finds that such proposal (A) was  
31 developed in a manner that is consistent with the acquisition plan  
32 approved by the authority, (B) serves the long-term interests of  
33 ratepayers, and (C) cost-effectively avoids or defers distribution system  
34 costs.]

35 (a) Each electric distribution company shall solicit proposals to  
36 acquire new fuel cell electricity generation projects that began operation  
37 on or after July 1, 2021. All such projects shall be selected utilizing a  
38 competitive process that gives preference to fuel cell electricity  
39 generation projects manufactured in the state and sited on brownfields,  
40 as defined in section 32-760, or landfills. On or before January 1, 2022,  
41 each electric distribution company shall submit the selected projects and  
42 associated tariffs to the Public Utilities Regulatory Authority for  
43 approval.

44 (b) On or before August 1, 2021, all electric distribution companies  
45 shall jointly file with the authority for approval a proposed tariff for use  
46 in the solicitation authorized in subsection (a) of this section. The  
47 facilities acquired under this section shall not exceed a total nameplate  
48 capacity rating of thirty megawatts in the aggregate apportioned among

49 each electric distribution company in proportion to distribution load.  
50 Any proposed projects submitted by an electric distribution company  
51 shall include the electric distribution company's full projected costs and  
52 shall demonstrate to the authority that such facility is not supported in  
53 any form of cross subsidization by affiliated entities, except that the  
54 costs associated with those benefits which the authority determines that  
55 a proposed fuel cell project confers on the natural gas system may be  
56 recovered from all gas customers through the purchased gas adjustment  
57 clause established pursuant to section 16-19b and such costs shall be  
58 apportioned relative to the revenues of each gas company as reported  
59 to the authority pursuant to section 16-49 for the most recent fiscal year.

60 (c) The authority may approve any such projects for the purpose of  
61 (1) providing commercial or industrial electric or gas customers with on-  
62 site generation that increases power quality or resilience, as defined in  
63 section 16-243y, provides back-up power or reduces energy costs for  
64 such customers, (2) providing emergency service facilities with back-up  
65 power, or (3) enhancing distribution system reliability, including, but  
66 not limited to, electric voltage or frequency improvements, support of  
67 microgrids or other measures that support electric or gas system  
68 resiliency. The authority shall evaluate any projects submitted pursuant  
69 to this section in a manner that is consistent with the provisions of  
70 sections 16-19 and 16-19e.

71 (d) The costs prudently incurred by an electric distribution company  
72 under this section shall be recovered from all customers of the electric  
73 distribution company through a fully reconciling component of electric  
74 rates for all customers of the electric distribution company, until the  
75 electric distribution company's next rate case, at which time any costs  
76 and investments for new fuel cell generation owned by the electric  
77 distribution company pursuant to [subdivision (1) of] this section [shall]  
78 may be recoverable through base distribution rates, as determined by  
79 the authority. Nothing in this section shall preclude the resale or other  
80 disposition of any energy products, capacity and associated  
81 environmental attributes purchased by the electric distribution  
82 company, [provided the electric distribution company shall net the cost

83 of payments made to projects under any long-term contracts entered  
 84 into pursuant to subdivision (2) of this section against the proceeds of  
 85 the sale of any energy products, capacity and environmental attributes  
 86 and the difference thereof plus any net costs incurred pursuant to  
 87 subdivision (3) of this section shall be credited or charged to distribution  
 88 customers through a reconciling component of electric rates, as  
 89 determined by the authority, that is nonbypassable when switching  
 90 electric suppliers] if so ordered by the authority. The electric  
 91 distribution company may use any energy products, capacity and  
 92 environmental attributes produced by such facility to meet the needs of  
 93 customers served pursuant to section 16-244c, and as determined by the  
 94 authority. Notwithstanding the provisions of subdivision (1) of  
 95 subsection (h) of section 16-244c, certificates issued by the New England  
 96 Power Pool Generation Information System for any Class I renewable  
 97 energy source acquired pursuant to this section may be retained by the  
 98 electric distribution company to meet the requirements of section 16-  
 99 245a, and as determined by the authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	16-244y

**ET** Joint Favorable

*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.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

There is no fiscal impact resulting from the bill, which requires electric distribution companies to solicit proposals for fuel cell electricity generation projects.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis****HB 6524*****AN ACT CONCERNING THE SOLICITATION OF NEW FUEL CELL ELECTRICITY GENERATION PROJECTS.*****SUMMARY**

This bill requires each electric distribution company (EDC; i.e., Eversource and United Illuminating) to (1) solicit proposals to acquire new fuel cell electricity generation projects that begin operation on or after July 1, 2021, (2) select project proposals from those solicitations, and (3) submit their selected proposals to the Public Utilities Regulatory Authority (PURA). Under the bill, PURA must evaluate the proposals and may approve them for certain purposes, such as enhancing distribution system reliability.

The bill limits the size of project facilities the EDCs may acquire to 30 megawatts of capacity in the aggregate apportioned to each EDC based on its distribution load. Under the bill, costs prudently incurred by an EDC must be recovered from all its customers through a fully reconciling component of its electric rates until the company's next rate case, when the company may recover its costs and investments for newly owned fuel cell generation through its base distribution rates, as determined by PURA.

Additionally, the bill eliminates a similar provision in current law authorizing, but not requiring, the EDCs to submit plans to PURA to acquire new fuel cell electricity generation facilities that began operation on or after July 1, 2017.

EFFECTIVE DATE: July 1, 2021

**SOLICITATION PROCESS AND PROPOSAL SUBMISSIONS**

The bill requires the EDCs to use a competitive solicitation process

and give preference to projects manufactured in the state and sited on landfills or brownfields (see BACKGROUND) when selecting new fuel cell electricity generation projects from the proposals they receive. However, presumably before soliciting for project proposals, the EDCs must, by August 1, 2021, jointly file with PURA a proposed tariff (generally, rates, terms, and conditions) to use in their solicitations, subject to PURA's approval. The bill does not specify a timeline for PURA to review and approve the tariff. The bill requires each EDC to submit selected project proposals and associated tariffs to PURA by January 1, 2022.

Under the bill, submitted proposals must (1) include the EDC's full projected costs and (2) demonstrate to PURA that a project's facility is not supported in any form of cross subsidization by affiliated entities, except that gas companies may recover costs associated with benefits a proposed project confers on the natural gas system, as determined by PURA. Gas companies may recover these costs from all gas customers through the statutory purchased gas adjustment clause in proportion to their revenue as reported to PURA for the most recent fiscal year.

### **PROJECT EVALUATION AND APPROVAL**

The bill requires PURA to evaluate submitted project proposals in a manner consistent with ratemaking principles established in state law (see BACKGROUND). It authorizes PURA to approve any projects for the following purposes:

1. to give commercial or industrial electric or gas customers on-site generation that (a) increases power quality or resilience, (b) provides back-up power, or (c) reduces their energy costs;
2. to provide emergency service facilities with back-up power; or
3. to enhance distribution system reliability, including making electric voltage or frequency improvements, supporting microgrids, or taking other measures that support electric or gas system resiliency.

By law, “resilience” is the ability to prepare for and adapt to changing conditions and withstand and recover rapidly from deliberate attacks, accidents, or naturally occurring threats or incidents, such as those associated with climate change.

## **USE OF ENERGY PRODUCTS**

The bill allows the EDCs to use any energy products, capacity, and environmental attributes (e.g., renewable energy certificates (RECs)) produced by a project’s facility to meet the needs of their standard service customers (i.e., customers who do not select a retail energy supplier), and as may otherwise be determined by PURA. The bill explicitly does not preclude companies from reselling or otherwise disposing of energy products, capacity, and environmental attributes they purchase under the bill if PURA orders them to do so.

The state’s renewable portfolio standard (RPS) generally requires that a portion of the power provided by the EDCs and retail electric suppliers come from renewable resources. Companies may meet their RPS requirement through purchasing RECs. By law, the EDCs must contract with their wholesale suppliers to comply with the RPS. The bill supersedes this law and allows the EDCs to retain Class I RECs issued by the New England Power Pool Generation Information System for fuel cells acquired under the bill to meet their RPS requirements, as determined by PURA.

## **BACKGROUND**

### ***Brownfields***

By law, a brownfield is any abandoned or underused site where redevelopment, reuse, or expansion has not occurred due to the presence or potential presence of pollution in the buildings, soil, or groundwater that requires investigation or remediation before or in conjunction with the property’s redevelopment, reuse, or expansion (CGS § 32-760(2)).

### ***Ratemaking Principles***

By law, PURA must generally investigate whether proposed rates by



public service companies (including the EDCs and gas companies) conform to ratemaking principles established in law (CGS § 16-19). Specifically, in accordance with the following principles:

1. there must be a clear public need for the service being proposed or provided;
2. the public service company must be fully competent to provide efficient and adequate service (i.e., it is technically, financially, and managerially expert and efficient);
3. PURA and all public service companies must perform their respective public responsibilities with economy, efficiency, and care for public safety and energy security, as well as promote economic development within the state with consideration for conservation, energy efficiency, development and use of renewable energy, and prudent management of the natural environment;
4. the rate level and structure must be sufficient, but no more than sufficient, to allow companies to cover their operating costs, including appropriate staffing levels, and capital costs, to attract needed capital and to maintain financial integrity, and yet provide appropriate protection to relevant public interests;
5. the level and structure of rates charged to customers must reflect prudent and efficient management of the operation; and
6. company rates, charges, conditions of service, and categories of service must not discriminate against customers using renewable energy sources or co-generation technology to meet a portion of their energy requirements (CGS § 16-19e).

#### **COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable

Yea 25    Nay 0    (03/11/2021)