Senate

General Assembly

File No. 348

February Session, 2022

Substitute Senate Bill No. 176

Senate, April 6, 2022

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 CLEAN ENERGY TARIFF PROGRAMS.

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

Section 1. Subdivision (2) of subsection (a) of section 16-244z of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(2) Not later than July 1, 2022, and annually thereafter, each electric distribution company shall solicit and file with the Public Utilities Regulatory Authority for its approval one or more projects selected resulting from any procurement issued pursuant to subdivision (1) of this subsection that are consistent with the tariffs approved by the authority pursuant to subparagraphs (B) and (C) of subdivision (1) of this subsection and that are applicable to (A) customers that own or develop new generation projects on a customer's own premises that are less than **[**two**]** five megawatts in size, serve the distribution system of the electric distribution company, are constructed after the solicitation conducted pursuant to subdivision (4) of this subsection to which the

customer is responding, and use a Class I renewable energy source that either (i) uses anaerobic digestion, or (ii) has emissions of no more than 0.07 pounds per megawatt-hour of nitrogen oxides, 0.10 pounds per megawatt-hour of carbon monoxide, 0.02 pounds per megawatt-hour of volatile organic compounds and one grain per one hundred standard cubic feet, (B) customers that own or develop new generation projects on a customer's own premises that are less than [two] five megawatts in size, serve the distribution system of the electric distribution company, are constructed after the solicitation conducted pursuant to subdivision (4) of this subsection to which the customer is responding, and use a Class I renewable energy source that emits no pollutants, and (C) customers that own or develop new generation projects that are a shared clean energy facility, [as defined in section 16-244x, and subscriptions, as defined in such section, associated with such facility,] consistent with the program requirements developed pursuant to subparagraph (C) of subdivision (1) of this subsection. For purposes of this section, "shared clean energy facility" means a Class I renewable energy source, as defined in section 16-1, that (i) is served by an electric distribution company, as defined in section 16-1, (ii) is within the same electric distribution company service territory as the individual billing meters for subscriptions, (iii) has a nameplate capacity rating of five megawatts or less, and (iv) has at least two subscribers. Any project that is eligible pursuant to subparagraph (C) of this subdivision shall not be eligible pursuant to subparagraph (A) or (B) of this subdivision.

Sec. 2. Subdivisions (6) and (7) of subsection (a) of section 16-244z of the 2022 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(6) The program requirements for shared clean energy facilities developed pursuant to subparagraph (C) of subdivision (1) of this subsection shall include, but not be limited to, the following:

(A) The department shall allow cost-effective projects of various nameplate capacities that may allow for the construction of multiple projects in the service area of each electric distribution company that operates within the state.

(B) The department shall determine the billing credit for any subscriber of a shared clean energy facility that may be issued through the electric distribution companies' monthly billing systems, and establish consumer protections for subscribers and potential subscribers of such a facility, including, but not limited to, disclosures to be made when selling or reselling a subscription.

(C) Such program shall utilize one or more tariff mechanisms with the electric distribution companies for a term not to exceed twenty years, subject to approval by the Public Utilities Regulatory Authority, to pay for the purchase of any energy products and renewable energy certificates produced by any eligible shared clean energy facility, or to deliver any billing credit of any such facility.

(D) The department shall limit subscribers to (i) low-income customers, (ii) moderate-income customers, (iii) small business customers, (iv) state or municipal customers, (v) commercial customers, and (vi) residential customers who can demonstrate, pursuant to criteria determined by the department in the program requirements recommended by the department and approved by the authority, that they are unable to utilize the tariffs offered pursuant to subsection (b) of this section.

(E) The department shall require that (i) not less than [ten] twenty per cent of the total capacity of each shared clean energy facility is sold, given or provided to low-income customers, and (ii) [in addition to the requirement of clause (i) of this subparagraph,] not less than [ten] sixty per cent of the total capacity of each shared clean energy facility is sold, given or provided to low-income customers, moderate-income customers or low-income service organizations.

(F) The department may allow preferences to projects that serve low-income customers and shared clean energy facilities that benefit customers who reside in environmental justice communities.

(G) The department may create incentives or other financing mechanisms to encourage participation by low-income customers.

(H) The department may require that not more than fifty per cent of the total capacity of each shared clean energy facility is sold to commercial customers.

(7) For purposes of this subsection:

(A) "Environmental justice community" has the same meaning as provided in subsection (a) of section 22a-20a;

(B) "Low-income customer" means an in-state retail end user of an electric distribution company (i) whose income does not exceed **[**eighty**]** sixty per cent of the **[**area**]** state median income, **[**as defined by the United States Department of Housing and Urban Development,**]** adjusted for family size, or (ii) that is an affordable housing facility; **[**as defined in section 8-39a;**]**

(C) "Low-income service organization" means a for-profit or nonprofit organization that provides service or assistance to low-income individuals;

(D) "Moderate-income customer" means an in-state retail end user of an electric distribution company whose income is between eighty per cent and one hundred per cent of the area median income as defined by the United States Department of Housing and Urban Development, adjusted for family size.

Sec. 3. Subparagraph (A) of subdivision (1) of subsection (c) of section 16-244z of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(c) (1) (A) The aggregate total megawatts available to all customers utilizing a procurement and tariff offered by electric distribution companies pursuant to subsection (a) of this section shall be up to eighty-five megawatts in year one and increase by up to an additional **[**eighty-five**]** one hundred sixty megawatts per year in each of the years two through six of such a tariff, provided the total megawatts available to customers eligible under subparagraph (A) of subdivision (2) of subsection (a) of this section shall not exceed ten megawatts per year, the total megawatts available to customers eligible under subparagraph (B) of subdivision (2) of subsection (a) of this section shall not exceed **[**fifty**]** one hundred megawatts per year and the total megawatts available to customers eligible under subparagraph (C) of subdivision (2) of subsection (a) of this section shall not exceed **[**twenty-five**]** fifty megawatts per year. The authority shall monitor the competitiveness of any procurements authorized pursuant to subsection (a) of this section and may adjust the annual purchase amount established in this subsection or other procurement parameters to maintain competitiveness. Any megawatts not allocated in any given year shall **[**not**]** roll into the next year's available megawatts. The obligation to purchase energy and renewable energy certificates shall be apportioned to electric distribution companies based on their respective distribution system loads, as determined by the authority.

Sec. 4. Section 16-244z of the 2022 supplement to the general statutes is amended by adding subsection (f) as follows (*Effective October 1, 2022*):

(NEW) (f) Notwithstanding the size-to-load provisions of subdivision (4) of subsection (a) of this section, the entire rooftop space of a customer's own premises developed pursuant to subparagraph (B) of subdivision (1) of subsection (a) of this section and owned by a commercial or industrial customer may be used for purposes of electricity generation and participation in the solicitation conducted by each electric distribution company pursuant to subdivision (4) of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2022*	16-244z(a)(2)
Sec. 2	*October 1, 2022*	16-244z(a)(6) and (7)
Sec. 3	*October 1, 2022*	16-244z(c)(1)(A)
Sec. 4	*October 1, 2022*	16-244z

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: See below

Municipal Impact: See below

Explanation

Easing restrictions on the production of certain types of electricity could lower the cost of generation and thus benefit ratepayers, including the state and municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis
sSB 176

AN ACT CONCERNING CLEAN ENERGY TARIFF PROGRAMS.

SUMMARY

This bill expands the Non-Residential Energy Solutions (NRES) and the Shared Cleaner Energy Facilities (SCEF) programs (see BACKGROUND).

The bill increases the yearly amount of capacity in megawatts (MW) available for (1) zero-emissions NRES projects (e.g., solar facilities) from 50 to 100 MW and (2) SCEF projects from 25 to 50 MW (§ 3). Existing law establishes a six-year schedule for these programs and current law caps the aggregate capacity of both programs at 85 MW each year. The bill correspondingly raises the aggregate cap for NRES and SCEF projects from 85 to 160 MW in years two through six. Under current law, megawatts available under the programs for each year expire annually. The bill instead requires the available megawatts to roll over to the next program year.

The bill increases the eligible project size for these programs, from two to five MW for NRES and from four to five MW for SCEF (§ 1). It also increases the potential size of NRES projects by allowing commercial and industrial customers to participate in the program using their entire rooftop space, exempting them from a provision that generally limits project size based on the customer's load (i.e., amount of the energy the customer uses) (§ 4).

For SCEF, the bill increases the proportion of the program that must benefit low-income customers (§ 2). It increases the amount of each SCEF facility's total capacity that must be sold, given, or provided to low-income customers from 10% to 20%. It also increases the amount that must go to low- or moderate-income customers or low-income

service organizations (i.e., organizations assisting low-income people) from 10% to 60%. Currently, these requirements are separate, but under the bill, the low-income requirement may be used to meet the larger low-income, moderate-income, and service organization requirement. The bill also defines "low-income" based on state median income, rather than area median income.

EFFECTIVE DATE: October 1, 2022

LOW-INCOME CUSTOMERS FOR SCEF REQUIREMENTS

Under current law, "low-income" customers have incomes up to 80% of the area median income as defined by the U.S. Department of Housing and Urban Development. The bill instead defines "low-income" as up to 60% of the state median income. By law, affordable housing facilities are also low-income customers. The bill correspondingly removes reference to an existing statutory definition that is based on area median income.

BACKGROUND

NRES Program

The NRES program allows non-residential customers (e.g., commercial and industrial customers) to participate in an annual solicitation conducted by Eversource and United Illuminating in which selected projects enter into a 20-year contract with the companies for energy and related products (e.g., renewable energy credits (RECs)). To be eligible, a project must be a Class I renewable energy source that (1) uses anaerobic digestion or has low emissions (e.g., fuel cells) or (2) has zero emissions (e.g., solar facilities) (CGS § 16-244z(a)(2)(A) & (B)). The law has a six-year schedule for the program, which is currently in its first year (i.e., 2022 is Year 1).

SCEF Program

Generally, a shared clean energy facility allows customers to subscribe for energy or RECs from a facility that is not on the customer's premises. Under the SCEF program, eligible facilities are Class I renewable energy sources (e.g., wind or solar) served by Eversource or

United Illuminating with at least two subscribers in the same utility service territory as the facility (CGS § 16-244z(a)(2)(C)). Eversource and United Illuminating conduct an annual solicitation using a competitive bidding procurement process and enter into 20-year contracts with selected projects. The law establishes a six-year schedule for the program, which is currently in its third year (i.e., 2020 was Year 1).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute
Yea 26 Nay 0 (03/22/2022)