
OLR Bill Analysis

sSB 385 (File 351, as amended by Senate "A")*

AN ACT CONCERNING ENERGY PROCUREMENTS.

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BACKGROUND

SUMMARY

This bill includes provisions on energy procurements (e.g., for nuclear, offshore wind, run-of-the-river hydropower, and biomass) and other energy-related topics, as described in the section-by-section analysis below.

*Senate Amendment "A" removes provisions from the underlying bill on standard service procurement, changes existing provisions on nuclear procurement rather than establishing separate ones, and adds provisions on (1) employing state commercial fishing licensees for offshore wind projects, (2) the Class III renewable portfolio standard, (3) the run-of-the-river hydropower solicitation, (4) shared clean energy facility (SCEF) gas rebates, (5) biomass power purchase agreements, (6) a solar consumer protection task force, and (7) the Public Utility Regulatory Authority's (PURA) selection of other agencies to implement certain programs.

EFFECTIVE DATE: Upon passage, except that the provisions on the Class III RPS, the run-of-the-river hydropower solicitation, and PURA's selection of other agencies to implement certain programs are effective July 1, 2024.

§ 1 — COORDINATED SOLICITATION FOR NUCLEAR

Requires DEEP to coordinate zero-carbon procurements for nuclear facilities with other states starting July 1, 2024, and prohibits PURA from approving any agreements with nuclear facilities unless at least two other states have also approved the agreement

Existing law authorizes the Department of Energy and Environmental Protection (DEEP) commissioner to solicit proposals for up to 12 million megawatt (MW)-hours of energy annually, in the aggregate, from zero-carbon electricity-generating resources that meet certain requirements. If she finds one or more proposals to be in the ratepayers' best interest, she must direct the electric distribution companies (EDCs, e.g., Eversource and United Illuminating) to enter into agreements to purchase energy, capacity, and environmental attributes under the selected proposals. Agreements are subject to PURA's review and approval, and the EDCs must recover their net costs of the agreements through a nonbypassable, fully reconciling

component of ratepayer bills. In practice, DEEP conducted solicitations under these provisions and the EDCs entered into contracts with selected bidders, including Millstone Power Station (see BACKGROUND).

For any solicitation DEEP issues under these provisions on or after July 1, 2024, the bill requires DEEP to conduct the solicitation in coordination with at least two other states in the ISO-New England control area (i.e., generally, New England states). The bill prohibits the DEEP commissioner from directing any EDC to enter into an agreement with a nuclear power generating facility unless applicable officials from at least two other New England states select a proposal for any combination of energy, capacity, and any environmental attributes from an eligible nuclear facility in response to the coordinated solicitation. The bill correspondingly requires any agreement PURA reviews and approves from these solicitations to be conditioned on the approval of the agreement in at least two other states by the officials in those states or by other electric utilities or other entities the officials designate.

Existing law requires DEEP and PURA to conduct an appraisal of nuclear generating facilities to assess certain factors (e.g., their current economic condition and the impact on electric markets, energy security, and grid reliability if the facility retires before July 1, 2027). The bill allows the DEEP commissioner to revise the appraisal as she determines to further any solicitation issued on or after July 1, 2024.

§ 2 — OFFSHORE WIND SOLICITATIONS AND CONTRACTS

Adds requirements to the existing offshore wind procurement authorization related to employing state commercial fishing licensees; allows DEEP to enter into agreements for terms up 30 years, rather than 20 years, if the solicitation is coordinated with at least one other state and officials from that state select a proposal

Existing law authorizes DEEP to solicit proposals for a total of up to 2,000 MW from offshore wind providers and transmission providers (for transmission associated with offshore wind projects) by December 31, 2030. For selected projects, the DEEP commissioner may direct the EDCs to enter into power purchase agreements (PPAs) for energy, capacity, and associated transmission, subject to PURA's review and approval. The bill adds requirements related to employing state

commercial fishing licensees and extends the maximum length of agreements entered into under the solicitation from 20 to 30 years.

Employing State Commercial Fishing Licensees

For solicitations on and after July 1, 2024, the bill requires DEEP to include contract commitments that require selected bidders, including associated transmission providers, to use best efforts to award certain contracts or employment to state commercial fishing licensees when all other factors are equal. This applies when the bidders are employing or contracting with fishermen for support services (e.g., scouting for fishing gear or serving as a safety vessel in a construction zone) for any projects the state selects or in proportion to the state share of any project selected by multiple states or entities. Specifically, bidders must (1) maintain records documenting the best efforts and (2) file a monthly report describing them with the Department of Economic and Community Development on a department-prescribed form.

The bill also requires these contract commitments on best efforts to include a provision that requires any fishermen providing support services to meet certain training and certification requirements and be inspected before providing the services. The training and certification standards are those described in the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers. The inspection must follow the International Marine Contractors Association’s marine inspection for small workboats inspection document. Under the bill, the inspection may be conducted by the Coast Guard or any inspector accredited through the International Institute of Marine Surveying’s Marine Surveying Academy’s accredited vessel inspector program.

Agreement Term Extension

For selected projects, the DEEP commissioner may direct the EDCs to enter into PPAs for energy, capacity, and associated transmission, subject to PURA’s review and approval. Under current law, these agreements are for periods up to 20 years. The bill allows the commissioner to direct the EDCs to enter into agreements for longer periods of up to 30 years if (1) she coordinates the solicitation with at

least one other state and (2) in response to the coordinated solicitation, applicable officials in the other state or states select a proposal for any combination of energy, capacity, and environmental attributes for a longer period up to 30 years.

§ 3 — CLASS III RENEWABLE PORTFOLIO STANDARD (RPS)

Delays the Class III RPS sunset until December 31, 2029, but exempts certain retail electric supply contracts from Class III RPS requirements

Existing law requires electric suppliers and EDCs, for their standard service procurement, to obtain at least 5% of their total output from Class III sources (e.g., certain combined heat and power systems and waste heat recovery systems, see below).

Under current law, this requirement sunsets on December 31, 2024. The bill delays this sunset by five years to December 31, 2029. It also creates an exception for any retail electric supply contract entered into or renewed on or after January 1, 2023, but before July 1, 2024. These contracts must get at least 4% of their output from Class III sources. Under the bill, this exception begins July 1, 2024, and ends January 1, 2026, or on the contract's renewal date, whichever is sooner.

By law, the following energy sources are Class III sources:

1. electricity output from combined heat and power systems with an operating efficiency level of at least 50% that are part of the customer-side distributed resources developed at commercial and industrial facilities in the state on and after January 1, 2006;
2. a waste heat recovery system installed on or after April 1, 2007, that produces electrical or thermal energy by capturing preexisting waste heat and pressure from industrial or commercial processes; or
3. electricity savings created in this state from conservation and load management programs begun on or after January 1, 2006, excluding ratepayer-supported programs, except that a demand-side management project awarded a contract in a procurement to reduce federally mandated congestion charges is eligible for the

contract's term (CGS § 16-1(a)(38)).

§ 4 — RUN-OF-THE-RIVER HYDROPOWER SOLICITATION

Authorizes the DEEP commissioner to solicit proposals from providers of instantaneous run-of-the-river hydropower that is interconnected to the electric distribution system and allows her to select proposals for up to 20 MW in total by December 31, 2025

The bill authorizes the DEEP commissioner to solicit proposals from providers of instantaneous run-of-the-river hydropower that is interconnected to the electric distribution system. She must do this in consultation with PURA's procurement manager, the Office of Consumer Counsel, and the attorney general.

The DEEP commissioner must consider at least the following factors when selecting proposals:

1. whether the proposal is in the ratepayer's interest, including the delivered price of any electricity, capacity, or environmental attributes procured through the solicitation;
2. the emissions profile for the provider's hydropower generation facilities;
3. the provider's investments or anticipated investments to improve the facility's emissions profile or environmental performance (e.g., investments related to water quality, water flow, or fish passage);
4. any positive impacts on the state's economic development;
5. whether the proposal is consistent with the state's Comprehensive Energy Strategy; and
6. whether the proposal functions as a load-reducing resource or promotes electric distribution system reliability or other benefits (e.g., microgrids).

The bill prohibits the DEEP commissioner from selecting a proposal based on a new dam or a dam she identified as a candidate for removal. It requires proposals to meet applicable state and federal requirements,

including those on dam safety and site-specific standards on water quality and fish passage.

Under the bill, the DEEP commissioner may select proposals by December 31, 2025, with nameplate capacities of up to 20 MW in the aggregate. The bill authorizes the DEEP commissioner to direct the EDCs to enter into PPAs for any combination of energy, capacity, and environmental attributes for periods of up to 20 years on behalf of EDC customers. Agreements are subject to PURA's review and approval and PURA must complete its review within 180 days after the agreement is filed with PURA.

The bill allows any Class I renewable energy certificates (RECs) procured through this solicitation to be (1) sold in the New England Power Pool Generation Information System REC market and used by any electric supplier or EDC to meet RPS requirements, with sale revenues credited to EDC customers, or (2) kept by an EDC to meet its RPS requirements. The bill requires EDCs, when deciding whether to hold or sell RECs procured under the solicitation, to select the option that is in its ratepayers' best interests.

The bill requires the net costs of any agreement entered into under the solicitation, including the EDC's reasonable costs incurred related to the agreement, to be recovered through a fully reconciling electric rate component for all EDC customers. The bill also makes DEEP's reasonable costs associated with the solicitation and review of proposals recoverable through the nonbypassable federally mandated congestion charges (a component of electric ratepayer bills).

§ 5 — SCEF NATURAL GAS REBATES

Requires gas companies to give rebates to SCEF customers that use natural gas (e.g., fuel cells) that were selected to participate in SCEF by the end of 2023

By January 1, 2025, the bill requires each gas company (i.e., the Connecticut Natural Gas Corporation, the Southern Connecticut Gas Company, and Eversource) to institute a program to give rebates to customers that use natural gas for a shared clean energy facility (SCEF) (e.g., a fuel cell) selected to participate in the SCEF program by

December 31, 2023.

Under the bill, the rebate is equal to the retail delivery charge for transporting natural gas to the SCEF. The bill allows the gas company to recover the costs of providing the rebates through its decoupling mechanism, authorized under existing law (CGS § 16-19tt).

The bill authorizes PURA to adopt regulations to implement this program.

Generally, a SCEF allows customers to subscribe for energy or RECs from a facility that is not on the customer's premises. Eligible facilities are Class I renewable energy sources (e.g., wind, solar, or fuel cells) 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)).

§ 6 — BIOMASS POWER PURCHASE AGREEMENTS

For biomass facilities with certain existing PPAs, authorizes the DEEP commissioner to direct EDCs to enter into additional biomass PPAs for up to 10 years

The bill authorizes the DEEP commissioner to direct an EDC to enter into one or more additional biomass PPAs with eligible biomass facilities. Under the bill, eligible biomass facilities are Class I biomass facilities that previously entered into at least one existing biomass PPA, in effect as of January 1, 2024, (1) entered into on or before June 5, 2013, with an EDC or (2) executed under solicitations for up to 4% of the state's load from Class I sources (CGS § 16a-3f) or for up to 6% of the state's load from certain Class I sources or energy storage (CGS § 16a-3h) (i.e., an "existing PPA").

The bill requires PURA to review and approve any additional biomass PPA. The EDC must file the PPA with PURA and PURA must issue a decision on it within 180 days after its filing or the decision is deemed approved.

Under the bill, any additional biomass PPA must be for (1) the same fraction of energy, capacity, and environmental attributes contracted for under the existing biomass PPA and (2) a ten-year period. The bill

allows EDCs to sell any RECs procured under the PPA and credit the revenues to its customers or retain the RECs to meet its RPS requirements. When deciding whether to sell or retain RECs, EDCs must select the option that is in ratepayers' best interests.

Under the bill, the net costs of the additional biomass PPA, including the EDC's costs under the agreement and its reasonable costs incurred related to it, must be recovered through a fully reconciling electric rate components for all of the EDC's customers.

§ 7 — SOLAR CONSUMER PROTECTION TASK FORCE

Establishes a task force on improving disclosure requirements and consumer protection for solar facilities and requires it to report its findings and recommendations to the Energy and Technology and General Law committees by January 1, 2025

The bill establishes a 17-member task force to examine and make recommendations on policy, regulations, and legislation to improve disclosure requirements and consumer protection for consumers who purchase, lease, or enter into PPAs for solar facilities. It requires the taskforce to examine whether special protections are needed for low-income consumers or senior citizens.

Membership

In addition to the appointed members listed in the table below, the task force includes the DEEP and DCP commissioners, the PURA chairperson, the consumer counsel, the Connecticut Green Bank president, or their designees.

Table: Solar Consumer Protection Taskforce Appointees

| Appointing Authority | Number of Appointees | Qualifications (if any) |
|------------------------------|-----------------------------|---|
| Governor | Two | Two solar facility retailers or members of an association representing them |
| House speaker | Two | One must have experience representing senior citizens in consumer protection or utility matters |
| Senate president pro tempore | Two | One must have experience representing consumer groups, especially in underserved communities |

| <i>Appointing Authority</i> | <i>Number of Appointees</i> | <i>Qualifications (if any)</i> |
|------------------------------------|------------------------------------|---------------------------------------|
| House and Senate majority leaders | One each | None |
| House and Senate minority leaders | Two each | None |

The bill requires appointing authorities to make initial appointments within 30 days after the bill's passage and fill any vacancy. The House speaker and Senate president pro tempore must select the task force's chairperson from among its members. The chairperson must schedule and hold the task force's first meeting within 60 days after the bill's passage. The bill requires the Energy and Technology Committee's administrative staff to serve as the task force's administrative staff.

Reporting and Termination

The bill requires the task force to report its findings and recommendations to the Energy and Technology and General Law committees by January 1, 2025. The task force terminates on that date or when it submits its report, whichever is later.

§ 8 — ENTITIES IMPLEMENTING PURA PROGRAMS

Allows PURA to select other agencies or EDCs to implement certain renewable energy programs and EV charging programs

Regardless of other energy laws, the bill allows PURA to select the Connecticut Green Bank, DEEP, the EDCs, or a third party PURA deems appropriate, or any combination of these, to implement the following programs:

1. the Nonresidential Renewable Energy Solutions program,
2. the Residential Renewable Energy Solutions program,
3. the Shared Clean Energy Facility program, or
4. a light-duty or medium- to heavy-duty electric vehicle (EV) charging program established in a PURA proceeding.

In practice, PURA established an EV charging program in 2021

decision (Docket 17-12-03RE04).

BACKGROUND

Previous Zero-Carbon Procurement (PA 17-3, June Special Session (JSS))

Among other things, PA 17-3, JSS, authorized DEEP and PURA to conduct a solicitation and procurement for bids from zero-carbon generation facilities. DEEP selected a bid for nine million megawatt-hours from the Millstone Power Station, owned by Dominion Energy, and, after a renegotiation, PURA approved PPAs between the EDCs and Dominion. Under the agreements, the EDCs must purchase 50% of Millstone's output over 10 years (2019 to 2029). A bid from Seabrook Station in New Hampshire was also selected, resulting in an eight-year contract (2022-2030).

Related Bills

SB 383 (File 349), favorably reported by the Energy and Technology Committee, requires bidders selected in DEEP's offshore wind solicitation to make payments into a mitigation fund to mitigate adverse consequences to wildlife, fisheries, and any other aspects of the fishing industry that result from the bidder's activities connected with offshore wind facility development and operation.

SB 382 (File 348), favorably reported by the Energy and Technology Committee, extends the maximum term, from 20 to 30 years, for agreements under a separate authorization for solicitations for offshore wind facilities for up to 3% of the state's load.

SB 297 (File 356), favorably reported by the Energy and Technology Committee, among other things, creates a task force to study ways to improve solar facility sales for customers.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 14 Nay 6 (03/21/2024)