



Senate

General Assembly

File No. 351

February Session, 2024

Substitute Senate Bill No. 385

Senate, April 9, 2024

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 ENERGY PROCUREMENTS.

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

1 Section 1. Section 16a-3m of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of this section:

4 (1) "Best interest of ratepayers" means the benefits of a contract or
5 proposal outweigh the costs to electric ratepayers, based on whether the
6 delivered prices of sources included in such contract or proposal are less
7 than the forecasted price of energy and capacity, as determined by the
8 commissioner or the commissioner's designee, and based on a
9 consideration of the following factors, as determined by the
10 commissioner or the commissioner's designee: (A) Impacts on electric
11 system operations and reliability; (B) the extent to which such contract
12 or proposal will contribute to (i) the local sourcing requirement set by
13 the regional independent system operator, as defined in section 16-1,

14 and (ii) meeting the requirements to reduce greenhouse gas emissions
15 and improve air quality in accordance with sections 16-245a, 22a-174
16 and 22a-200a; (C) fuel diversity; and (D) whether the proposal is aligned
17 with the policy goals outlined in the Integrated Resources Plan
18 developed pursuant to section 16a-3a and the Comprehensive Energy
19 Strategy developed pursuant to section 16a-3d, including, but not
20 limited to, environmental impacts; and

21 (2) "Eligible nuclear power generating facility" means a nuclear
22 power generating facility that is located in the control area of the
23 regional independent system operator, as defined in section 16-1, and is
24 licensed to operate through January 1, 2030, or later.

25 (b) The Commissioner of Energy and Environmental Protection and
26 the Public Utilities Regulatory Authority shall (1) conduct an appraisal
27 regarding nuclear power generating facilities in accordance with
28 subsection (c) of this section, and (2) determine whether a solicitation
29 process for nuclear power generating facilities shall be conducted
30 pursuant to subsection (d) of this section. On or before February 1, 2018,
31 the commissioner and the authority shall report, in accordance with
32 section 11-4a, the results of the appraisal and the selection conducted
33 pursuant to subsection (d) of this section to the General Assembly. If the
34 General Assembly does not reject such results by a simple majority vote
35 in each house on or before March 1, 2018, such results shall be deemed
36 approved.

37 (c) The appraisal conducted pursuant to subdivision (1) of subsection
38 (b) of this section shall assess: (1) The current economic condition of
39 nuclear generating facilities located in the control area of the regional
40 independent system operator, as defined in section 16-1; (2) the
41 projected economic condition of nuclear power generating facilities
42 located in the control area of the regional independent system operator,
43 as defined in section 16-1; (3) the impact on the following considerations
44 if such nuclear power generating facilities retire before July 1, 2027: (A)
45 Electric markets, fuel diversity, energy security and grid reliability, (B)
46 the state's greenhouse gas emissions mandated levels established

47 pursuant to section 22a-200a, and (C) the state, regional and local
48 economy.

49 (d) After completing the appraisal, if the results of such appraisal
50 demonstrate that action is necessary, the commissioner shall act and
51 may issue one or more solicitations, in consultation with the
52 procurement manager identified in subsection (l) of section 16-2 and the
53 Office of Consumer Counsel established in section 16-2a, for zero-
54 carbon electricity generating resources, including, but not limited to,
55 eligible nuclear power generation facilities, hydropower, Class I
56 renewable energy sources, as defined in section 16-1, and energy storage
57 systems, provided (1) the total annual energy output of any proposals
58 selected, in the aggregate, shall be not more than twelve million
59 megawatt hours of electricity, (2) any agreement entered into pursuant
60 to this subdivision with an eligible nuclear power generation facility or
61 hydropower shall be for a period of not less than three years and not
62 more than ten years, and (3) any agreement entered into pursuant to this
63 subdivision with Class I renewable energy sources, as defined in section
64 16-1, and energy storage systems shall be for a period of not more than
65 twenty years. On or before May 1, 2018, if the results of such appraisal
66 demonstrate that one or more solicitations pursuant to this subsection
67 are necessary, the commissioner shall initiate such solicitation process
68 pursuant to this subsection, in accordance with subsection (e) of this
69 section, provided any changes made, contracts entered into or
70 agreements entered into are in the best interest of ratepayers.

71 (e) (1) Any solicitation issued pursuant to subsection (d) of this
72 section for zero-carbon electricity generating resources, including, but
73 not limited to, eligible nuclear power generation facilities, hydropower,
74 Class I renewable energy sources, as defined in section 16-1, and energy
75 storage systems, shall be for resources delivered into the control area of
76 the regional independent system operator, as defined in section 16-1,
77 and any agreement entered into pursuant to subdivision (2) of this
78 subsection shall be in the best interest of ratepayers. If the commissioner
79 finds proposals received pursuant to such solicitations to be in the best
80 interest of ratepayers, the commissioner may select any such proposal

81 or proposals, provided (A) the total annual energy output of any
82 proposals selected, in the aggregate, shall be not more than twelve
83 million megawatt hours of electricity, (B) any agreement entered into
84 pursuant to this subdivision with an eligible nuclear power generation
85 facility or hydropower shall be for a period of not less than three years
86 and not more than ten years, and (C) any agreement entered into
87 pursuant to this subdivision with Class I renewable energy sources, as
88 defined in section 16-1, and energy storage systems shall be for a period
89 of not more than twenty years.

90 (2) If the commissioner has made the determination and finding
91 pursuant to subdivision (1) of this subsection, the commissioner shall,
92 on behalf of all customers of electric distribution companies, direct the
93 electric distribution companies to enter into agreements for energy,
94 capacity and any environmental attributes, or any combination thereof,
95 from proposals submitted pursuant to this subdivision.

96 (3) Any agreement entered into pursuant to subdivision (2) of this
97 subsection shall be subject to review and approval by the Public Utilities
98 Regulatory Authority. The electric distribution company shall file an
99 application for the approval of any such agreement with the authority.
100 The authority's review shall commence upon the filing of the signed
101 power purchase agreement with the authority. The authority shall
102 approve agreements that it determines (A) provide for the delivery of
103 adequate and reliable products and services, for which there is a clear
104 public need, at a just and reasonable price, (B) are prudent and cost
105 effective, and (C) that the respondent to the solicitation has the technical,
106 financial and managerial capabilities to perform pursuant to such
107 agreement. The authority shall issue a decision not later than one
108 hundred eighty days after such filing. If the authority does not issue a
109 decision within one hundred eighty days after such filing, the
110 agreement shall be deemed approved. The net costs of any such
111 agreement, including costs incurred by the electric distribution
112 company under the agreement and reasonable costs incurred by the
113 electric distribution company in connection with the agreement, but
114 excluding costs associated with the provision of standard service

115 pursuant to subsection (h) of this section, shall be recovered on a timely
116 basis through a nonbypassable fully reconciling component of electric
117 rates for all customers of the electric distribution company. Any net
118 revenues from the sale of products purchased in accordance with long-
119 term contracts entered into pursuant to this [section] subsection, except
120 any such net revenues associated with the provision of standard service
121 pursuant to subsection (h) of this section, shall be credited to customers
122 through the same nonbypassable fully reconciling rate component for
123 all customers of the contracting electric distribution company.

124 (f) Each person owning and operating a nuclear power generating
125 facility in the state shall pay a pro rata share of all reasonable costs
126 associated with the department's appraisal pursuant to subsection (c) of
127 this section, determination pursuant to subsection (d) of this section,
128 and actions taken pursuant to subsection (e) of this section in an amount
129 not to exceed one million dollars.

130 (g) (1) Notwithstanding the provisions of this section, the
131 commissioner may issue a solicitation, in consultation with the
132 procurement manager identified in subsection (l) of section 16-2 and the
133 Office of Consumer Counsel, for zero-carbon electricity generating
134 resources from an eligible nuclear power generating facility.

135 (2) Any solicitation for zero-carbon electricity generating resources
136 from an eligible nuclear power generating facility that the commissioner
137 issues pursuant to this subsection shall be conducted in coordination
138 with the applicable officials of two or more other states in the control
139 area of the regional independent system operator, as defined in section
140 16-1. The commissioner may not direct any electric distribution
141 company to enter into an agreement pursuant to subdivision (4) of this
142 subsection unless the applicable officials of at least two such states select
143 a proposal for energy, capacity and any environmental attributes, or any
144 combination thereof, from an eligible nuclear power generating facility
145 in response to such coordinated solicitation.

146 (3) Any solicitation issued pursuant to this subsection shall be for
147 resources delivered into the control area of the regional independent

148 system operator, as defined in section 16-1. If the commissioner finds a
149 proposal received pursuant to such solicitation to be in the best interest
150 of ratepayers, the commissioner may select such proposal, provided any
151 agreement entered into by an electric distribution company with an
152 eligible nuclear power generating facility pursuant to this subsection
153 shall be for a period of not more than ten years commencing on the day
154 immediately following the date that such company's agreement entered
155 into pursuant to subsection (e) of this section terminates.

156 (4) If the commissioner selects a proposal pursuant to subdivision (3)
157 of this subsection, the commissioner shall, on behalf of all customers of
158 electric distribution companies, direct the electric distribution
159 companies to enter into agreements for energy, capacity and any
160 environmental attributes, or any combination thereof, from an eligible
161 nuclear power generating facility. Any agreement entered into pursuant
162 to this subdivision shall be in the best interest of ratepayers.

163 (5) Any agreement entered into pursuant to this subsection shall be
164 subject to review and approval by the Public Utilities Regulatory
165 Authority. An electric distribution company shall file an application for
166 the approval of any such agreement with the authority. The authority's
167 review shall commence upon the filing of the signed agreement with the
168 authority. The authority shall approve any agreement that it
169 determines: (A) Provides for the delivery of adequate and reliable
170 products and services, for which there is a clear public need, at a just
171 and reasonable price; and (B) is prudent and cost effective. The authority
172 may not approve any agreement unless at least two other states, or
173 electric utilities or other entities designated by the applicable officials of
174 such states, enter into power purchase agreements or other agreements
175 for energy, capacity and any environmental attributes, or any
176 combination thereof, with an eligible nuclear power generating facility.
177 The authority shall issue a decision not later than one hundred eighty
178 days after such filing. If the authority does not issue a decision within
179 one hundred eighty days after such filing, such agreement shall be
180 deemed approved. The net costs of any such agreement, including costs
181 incurred by the electric distribution company under the agreement and

182 reasonable costs incurred by the electric distribution company in
183 connection with the agreement, shall be recovered on a timely basis
184 through a nonbypassable fully reconciling component of electric rates
185 for all customers of the electric distribution company. Any net revenues
186 from the sale of products purchased in accordance with long-term
187 contracts entered into pursuant to this subsection shall be credited to
188 customers through the same nonbypassable fully reconciling rate
189 component for all customers of the contracting electric distribution
190 company.

191 (h) (1) Notwithstanding the provisions of subsections (a) to (g),
192 inclusive, of this section, subsection (a) of section 16-244c and section 16-
193 244m, an electric distribution company may request the procurement
194 manager of the Public Utilities Regulatory Authority to authorize such
195 company to use any portion of the energy, capacity or other energy
196 products, or any combination thereof, that such company purchases
197 from an eligible nuclear power generating facility pursuant to an
198 agreement entered into pursuant to subsection (e) of this section, for the
199 purpose of providing electric generation services for standard service.
200 Not later than fifteen days after receiving such request, the procurement
201 manager shall, in consultation with the Office of Consumer Counsel,
202 deny or approve such request. The procurement manager may approve
203 such a request only if the procurement manager concludes that such
204 request is in the best interest of standard service customers.

205 (2) For any request that the procurement manager approves pursuant
206 to this subsection, the procurement manager shall establish: (A) The
207 time period during which such company shall use such energy, capacity
208 or other energy products to provide electric generation services for
209 standard service; (B) the quantity of energy, capacity or other energy
210 products that such company shall use to provide electric generation
211 services for standard service; and (C) the price that standard service
212 customers shall pay for such energy, capacity and other energy
213 products, provided the procurement manager may not establish a price
214 that is higher than the applicable price specified in the agreement that
215 such company entered into pursuant to subsection (e) of this section.

216 (3) If the procurement manager approves such request and
217 authorizes such company to use such portion of the energy, capacity or
218 other energy products to provide electric generation services for
219 standard service, the cost of such portion of energy, capacity or other
220 energy products shall be paid solely by standard service customers, in
221 accordance with the quantity and price established by the procurement
222 manager pursuant to subdivision (2) of this subsection.

223 (4) No person owning and operating a nuclear power generating
224 facility in the state shall pay any administrative costs associated with the
225 procurement manager's actions pursuant to this subsection.

226 (5) Nothing in this subsection or subsection (g) of this section shall be
227 construed to amend or alter the terms or conditions of any agreement
228 that an electric distribution company entered into pursuant to
229 subsection (e) of this section.

230 Sec. 2. Subsection (c) of section 16a-3n of the general statutes is
231 repealed and the following is substituted in lieu thereof (*Effective from*
232 *passage*):

233 (c) The commissioner may direct the electric distribution companies
234 to enter into power purchase agreements for energy, capacity, any
235 transmission associated with such energy derived from offshore wind
236 facilities that are Class I renewable energy sources as defined in section
237 16-1 and environmental attributes, or any combination thereof, for
238 periods of [not more than twenty] up to thirty years on behalf of all
239 customers of the state's electric distribution companies. Certificates
240 issued by the New England Power Pool Generation Information System
241 for any Class I renewable energy sources procured by an electric
242 distribution company pursuant to this section may be: (1) Sold into the
243 New England Power Pool Generation Information System renewable
244 energy credit market to be used by any electric supplier or electric
245 distribution company to meet the requirements of section 16-245a,
246 provided the revenues from such sale are credited to electric
247 distribution company customers as described in this section; or (2)
248 retained by the electric distribution company to meet the requirements

249 of section 16-245a. In considering whether to sell or retain such
250 certificates, the company shall select the option that is in the best interest
251 of such company's ratepayers.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16a-3m
Sec. 2	<i>from passage</i>	16a-3n(c)

Statement of Legislative Commissioners:

In Section 1(h)(5), "section" was changed to "subsection or subsection (g) of this section" for consistency with standard drafting conventions.

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

This bill makes several changes regarding energy procurements and results in no direct fiscal impact to the state.

Ratepayer Impact Statement¹:

This bill allows the Department of Energy and Environmental Protection (DEEP) to issue a coordinated solicitation for zero-carbon electricity generating resources from an eligible nuclear power generating facility and results in an indeterminate impact on ratepayers, depending on market fluctuations and the length of the agreed upon procurement².

The Out Years

State Impact: None

Municipal Impact: None

¹ The state and municipalities are ratepayers, and they may be impacted by policy changes that affect electric rates.

² The bill allows DEEP to select proposals found to be in ratepayers' best interest. A proposal is in the ratepayers' best interest if its benefits outweigh its costs to electric ratepayers, based on whether the delivered price of sources included is less than the forecasted price of energy and capacity, as determined by the DEEP commissioner or her designee. See the Bill Analysis for more details.

OLR Bill Analysis**sSB 385*****AN ACT CONCERNING ENERGY PROCUREMENTS.*****SUMMARY**

This bill authorizes the Department of Energy and Environmental Protection (DEEP) commissioner to issue a coordinated solicitation for zero-carbon electricity generating resources from an eligible nuclear power generating facility. She must coordinate with the applicable officials in at least two New England states to conduct the solicitation. The bill prohibits the DEEP commissioner from directing the electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to enter into agreements under selected proposals unless officials representing at least two other New England states select a proposal in response to the solicitation.

The bill allows the DEEP commissioner to select proposals she determines to be in ratepayers' best interest. For selected proposals, the DEEP commissioner must direct the EDCs to enter into agreements for up to ten-year terms, starting on the date the company's agreement under the previous zero-carbon procurement ends (see BACKGROUND). Agreements must be in ratepayers' best interest and are subject to the Public Utilities Regulatory Authority's (PURA) review and approval. Under the bill, an agreement's net costs must be recovered through a component of electric rates for all EDC customers and any net revenues from selling products purchased under an agreement must be credited to customers through the same rate component.

The bill also authorizes the EDCs to request that PURA's procurement manager authorize them to use energy or related products purchased under the previous zero-carbon procurement to provide

standard service (see below). If the procurement manager approves the request, he must set certain terms for that use, including on time period, quantity, and price. The bill requires standard service customers to pay the cost of any portion of energy or related products approved for this purpose. It prohibits nuclear generating facility owners or operators from paying the procurement manager's administrative costs. It also specifies that neither the provision on procurement nor the authorization for a coordinated solicitation amend or alter agreements under the previous zero-carbon solicitation.

Lastly, the bill expands the maximum term, from 20 to 30 years, for power purchase agreements (PPAs) under a separate authorization for solicitations for Class I offshore wind facilities.

EFFECTIVE DATE: Upon passage

COORDINATED SOLICITATION FOR NUCLEAR

Solicitation Process

The bill allows the DEEP commissioner, in consultation with PURA's procurement manager, to issue a coordinated solicitation for zero-carbon electricity generating resources from an eligible nuclear power generating facility (i.e., a nuclear facility located in New England and licensed to operate through at least January 1, 2030). She must conduct the solicitation in coordination with applicable officials representing at least two New England states.

The bill requires the coordinated solicitation to be for resources delivered into the independent system operator (ISO)-New England control area (generally, New England).

Proposal Selection and EDC Agreements

The bill allows the DEEP commissioner to select proposals she finds to be in ratepayers' best interest. A proposal is in the ratepayers' best interest if its benefits outweigh its costs to electric ratepayers, based on whether the delivered price of sources included is less than the forecasted price of energy and capacity, as determined by the DEEP commissioner or her designee.

The determination must also be based on the following factors:

1. impacts on electric system operations and reliability;
2. the extent to which the proposal or contract contributes to (a) ISO-New England's local sourcing requirement, (b) the state's greenhouse gas emissions requirements, and (c) the state's air quality improvement requirements;
3. fuel diversity; and
4. whether the proposal and its environmental impacts align with the state's Integrated Resources Plan and Comprehensive Energy Strategy.

For selected proposals, the bill requires the DEEP commissioner to direct the EDCs to enter into agreements for any combination of energy, capacity, and environmental attributes. An agreement must also be in ratepayers' best interests and for a term of up to 10 years, starting on the date the company's agreement under the previous zero-carbon procurement ends.

The bill prohibits the DEEP commissioner from directing EDCs to enter into any agreement under this solicitation unless applicable officials representing at least two states also select a proposal for any combination of energy, capacity, or environmental attributes from an eligible nuclear power generating facility in response to the coordinated solicitation.

PURA Review and Cost Recovery

The bill requires an EDC to apply to PURA for approval of any agreement resulting from the coordinated solicitation. PURA must start its review when the EDC files a signed agreement. PURA must approve an agreement if it determines that the agreement is prudent and cost effective and delivers adequate and reliable products and services, for which there is a clear public need, at a just and reasonable price.

The bill prohibits PURA from approving any agreement unless at

least two other states, or electric utilities or other entities designated by at least two other states' applicable officials, enter into PPAs or other agreements for any combination of energy, capacity, and environmental attributes with an eligible nuclear power generating facility.

The bill requires PURA to issue its decision within 180 days after the EDC files the agreement. If PURA does not issue a decision within this timeframe, the agreement is deemed approved.

Under the bill, the net costs of any agreement, including the EDC's costs under the agreement and its reasonable costs connected to the agreement, must be recovered on a timely basis through a nonbypassable, fully reconciling component of electric rates for all EDC customers. Any of the EDC's net revenues from selling products purchased under an agreement must be credited to its customers through the same rate component.

STANDARD SERVICE

Standard service is the energy supply sold to electric customers who do not choose to buy electricity through a third-party energy supplier. The EDCs buy electricity and other products to serve these customers through a process overseen by PURA's procurement manager, the Office of Consumer Counsel (OCC), and other parties (CGS § 16-244m).

The bill allows EDCs to request that PURA's procurement manager authorize the company to use any portion or combination of the energy, capacity, and other energy products the company purchases under an agreement approved under the previous zero-carbon procurement.

The bill allows the procurement manager to approve the request if he finds it is in the best interest of standard service customers. The procurement manager, in consultation with OCC, must approve or deny the request within 15 days of receiving it.

The bill requires the procurement manager to set the following parameters for any agreement he approves:

1. the quantity of energy, capacity, or other energy products that the company must use for standard service;
2. the time period during which they must use the energy, capacity, or other energy products; and
3. the price standard service customers must pay for the energy, capacity, or other energy products.

The bill requires the standard service customers to pay the cost of any portion of energy, capacity, or other energy products approved for this purpose at the price and quantity set by the procurement manager. It prohibits standard service customers from paying more for this energy, capacity, and other products than the applicable price specified in the agreement that the company entered into under the previous zero-carbon procurement. The bill also excludes costs associated with standard service from being recovered from all electric ratepayers.

OFFSHORE WIND CONTRACTS

Existing law authorizes DEEP to solicit proposals for a total of up to 2,000 megawatts 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 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 expands the periods for these agreements by allowing them to be for up to 30 years.

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 9 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 8-year contract (2022-2030).

Related Bills

SB 383, 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.

sSB 382, 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.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 14 Nay 6 (03/21/2024)