

Office of Legislative Research
Connecticut General Assembly



ACTS AFFECTING ENERGY AND UTILITIES



2009-R-0274
Revised

Kevin E. McCarthy, Principal Analyst

October 21, 2009

NOTICE TO READERS

This report provides highlights of new laws (public acts) affecting energy and public utilities enacted during the 2009 regular and special legislative sessions. In each summary we indicate the public act (PA) number. The report does not cover special acts and public acts that were vetoed unless the veto was overridden.

Not all provisions of the acts are included here. Complete summaries of all 2009 public acts passed will be available when OLR's *Public Act Summary* book is published; some are already on OLR's webpage: <http://www.cga.state.ct.us/olr/publicactsummaries.asp>.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website: <http://www.cga.state.ct.us/default.asp>.

Table of Content

ENERGY AND BUILDINGS	4
Green Building Standards and Energy Efficiency Requirements	4
Green Building Tax Credit.....	4
Providing Access to Utility Meters	4
Capitol Area District Heating and Cooling System	5
Geothermal Wells.....	6
Testing Energy Technologies	6
ENERGY ASSISTANCE	7
OTHER ENERGY LEGISLATION	7
State Energy Program	7
Transactions between Gas Companies and Their Affiliates, Propane Terminations, and the State's Energy Assessment.....	8
Funding for Conservation and Renewable Energy Programs	8
Bi-State Long Island Sound Commission (VETOED, OVERRIDDEN)	8
Alternative Fuels.....	9
Low-income Energy Advisory Board	9
TELECOMMUNICATIONS	10
Theft of Telecommunications Equipment.....	10
Scrap Metal Processors	10
Connecticut Television Network	10
WATER COMPANIES	11
Infrastructure Construction	11
Leases of Class I Land.....	11

ENERGY AND BUILDINGS

Green Building Standards and Energy Efficiency Requirements

This act delays the date when “green building” standards take effect and narrows their scope. It requires the state building inspector and Codes and Standards Committee to establish the threshold size for buildings subject to the standards. Under prior law, the standards applied to certain new construction costing \$5 million or more and renovations costing \$2 million or more.

The act delays and modifies the requirement that the state building inspector and Codes and Standards Committee revise the State Building Code with regard to energy efficiency standards. It increases the committee’s membership from 17 to 18 and requires that one member have expertise in energy efficiency matters.

(PA 09-192, effective upon passage)

Green Building Tax Credit

Starting with income years beginning on or after January 1, 2012, this act allows the state to establish a corporation tax credit for taxpayers who build buildings that meet certain energy and environmental standards (“green buildings”). It gives the Office of Policy and Management (OPM) secretary discretion on whether

to issue vouchers allowing taxpayers to claim the credits. It limits the credits for all projects to \$ 25 million.

Under the act, eligible projects would receive a base credit that increases with the project's green rating it allows additional credits for mixed-use projects and those located in certain areas.

Taxpayers could claim only 25% of the credit in any tax year, with the remainder allowed to be carried forward for up to five years. The credits would be transferrable and assignable.

(PA 09-8, September Special Session, these provisions effective upon passage)

Providing Access to Utility Meters

This act requires owners of residential buildings to give utilities and heating fuel dealers access to meters and other facilities located on their premises. It subjects the affected parties to sanctions if they do not, including being held responsible for their tenants’ utility bills.

The act also establishes verification requirements for the termination of residential utility service. These provisions apply to services provided by utility companies, municipal utilities, and competitive electric suppliers.

(PA 09-31, effective July 1, 2009)

Capitol Area District Heating and Cooling System

This act authorizes the Department of Public Works (DPW) to purchase, from the TEN Companies, Inc., the system that heats and cools state and non-state buildings in the capitol district. Among the state buildings this system serves are the Capitol, Legislative Office Building, Supreme Court building, and various executive branch office buildings. DPW must purchase the system in accordance with the Asset Purchase Agreement dated November 4, 2008 between the state and TEN Companies.

The act amends the charter of the Hartford Steam Company (TEN's predecessor) to allow the company or its parent or successor to sell the system to the state. The sale must at least include all assets and property related to or needed for the system's operation, as described in the Asset Purchase Agreement, relating to the sale. The act ratifies this agreement and requires DPW to comply with its terms. To the extent any provision in the agreement may be interpreted as waiving the state's sovereign immunity, such as indemnification provisions, these provisions are effective and enforceable against the state solely in accordance with their specific terms.

The act gives the DPW commissioner broad powers regarding the system. These include entering into contracts for the system's operation, providing energy services to state and non-state customers, granting easements with respect to state land in connection with the system's operation, and administering the Public Works Heating and Cooling Energy Revolving Account (created by the act) for paying the system's expenses and receiving its revenues.

The act does not limit the state's use of the system to its own use or functional capacity as of the date the state purchases the system. It also does not preclude the state from reselling the system to a third party if it is determined that this is in the state's best interest.

It authorizes the State Bond Commission to issue general obligation bonds of up to (1) \$10.6 million to acquire the system, including all assets and property covered by the agreement and (2) \$1 million for certain transactional costs, including funding for the account. The bonds can have terms of up to 20 years and are subject to standard statutory bond issuance procedures and repayment requirements.

(PA 09-15, effective upon passage)

This act specifies that the personal property tax paid on August 7, 2009 for property DPW acquired in its purchase of the system described above constitutes full payment for the system's property for the October 1, 2008 assessment year.

(PA 09-7, September Special Session, this provision effective upon passage)

Geothermal Wells

The act permits the Department of Public Health (DPH) commissioner, with the concurrence of the environmental and consumer protection commissioners, to give a university located in a city whose population is between 100,000 and 150,000 a variance from state regulations to install standing column geothermal wells in a class GB groundwater zone (not fit for human consumption without treatment). The commissioners may require the wells to meet minimum safeguards that exceed existing regulatory requirements.

Before the variance may be granted, the university must submit information these agencies deem necessary to assure the public health and the environment are protected. It must hire, at its expense, an independent expert to help the state agencies develop regulations for geothermal wells.

If, once it is operating, the public health or environmental protection commissioners

determine the well to be injuring public health or the environment, either may order it closed and abandoned according to regulatory requirements.

(PA 09-232, these provisions effective upon passage)

Testing Energy Technologies

The act allows the OPM secretary to direct a state agency to test technologies, products, or processes that he finds would promote energy efficiency or renewable energy to validate their effectiveness. Agencies cannot undertake this testing unless the business manufacturing or marketing the technology, product, or process demonstrates (1) the agency's use of it will not harm safety, (2) a certified independent third-party or accredited laboratory has found it reduces energy consumption and cost, and (3) it is either commercially available or will be within two years after the testing is completed.

If the secretary finds that using the technology, product, or process is feasible and will not harm the agency's operations, he can direct an agency to undertake the testing program without going through the state purchasing law. The manufacturer or marketer, or an investor or participant in the business must (1) pay the cost of acquiring and testing the technology, product, or product and (2) maintain records as required by OPM. Proprietary

information derived from the testing is exempt from the Freedom of Information Act.

If the secretary determines that the testing sufficiently demonstrates that the technology reduces energy use, fossil fuel dependence, or greenhouse gas emissions, the agency may request that the Department of Administrative Services waive competitive bidding or negotiation requirements to procure the technology for any or all state agencies.

(PA 09-7, September Special Session, these provisions effective upon passage)

ENERGY ASSISTANCE

This act requires the unspent balance of \$8.5 million appropriated in a 2008 act from the FY 08 General Fund surplus to be carried forward and available in FY 10 for an emergency energy assistance program established in the 2008 act (PA 08-1, August Special Session).

The 2008 act appropriated the funds to the OPM to expand Operation Fuel, Incorporated to provide emergency home heating assistance between November 1, 2008 and April 30, 2009 to Connecticut households with incomes between 150% and 200% of the applicable federal poverty level. The program helps households that cannot make timely payments on deliverable fuel, electricity, or natural gas bills. Under the program,

Operation Fuel, Incorporated pays the assistance directly to the fuel vendor, electric or gas company, or municipal electric or gas utility. Operation Fuel, Incorporated is a nonprofit organization that serves people who are not eligible for publicly funded energy assistance.

(PA 09-2, June 19, 2009 Special Session, this provision effective July 1, 2009)

PA 09-3 carries forward funds appropriated to OPM in 2008 to provide money to Operation Fuel, Incorporated to expand its emergency energy assistance program. Under that act, Operation Fuel must use the money during FY 10 to help moderate income households who cannot pay their electric, gas, or fuel bills on time. This act specifies that this assistance can be provided whether these are the household's primary or secondary energy sources, e.g., the assistance can be used to help pay electric bills for a household that uses electric space heaters to supplement its oil or gas furnace.

(PA 09-5, September Special Session, effective upon passage)

OTHER ENERGY LEGISLATION

State Energy Program

The American Recovery and Reinvestment Act of 2009 substantially expands federal funding for the Department of Energy's (DOE) State Energy Program. Federal law requires

states to submit detailed comprehensive grant applications to DOE to access the funds. This act requires the Office of Policy and Management (OPM) to submit its application to the Appropriations and Energy and Technology committees. OPM must do this at least 14 days before it submits its application to DOE. The act requires the committees to hold a public hearing on the application within seven days after receiving OPM's application. OPM must present testimony on the details of its application at the hearing.

(PA 09-3, effective upon passage)

Transactions between Gas Companies and Their Affiliates, Propane Terminations, and the State's Energy Assessment

This act requires the Department of Public Utility Control (DPUC) to establish a code of conduct setting minimum standards for transactions between gas companies and their affiliates. The act gives DPUC various investigative powers regarding affiliates and their transactions with gas companies. It allows DPUC to issue enforcement orders against entities subject to the code, including cease and desist orders, and impose civil penalties of up to \$10,000 per violation. DPUC must adopt regulations by November 1, 2010 establishing the code and related accounting

and reporting requirements and procedures.

The act limits when propane dealers can terminate service to eligible residential customers for nonpayment of their bills. These limits are similar to those that already apply to electric and natural gas utilities.

The act requires electric companies to submit integrated resources assessments by January 1 of every even-numbered year, rather than every year.

(PA 09-218, effective upon passage)

Funding for Conservation and Renewable Energy Programs

By law, the DEP commissioner, in consultation with DPUC, must auction carbon dioxide emission allowances and invest the proceeds. This act creates a nonlapsing Regional Greenhouse Gas Account, into which the comptroller must deposit the auction emission allowance proceeds to be deposited in the account. By law, the proceeds are invested in energy conservation, load management, and certain renewable energy programs on behalf of the electric ratepayers.

(PA 09-8, September Special Session these provisions effective upon passage)

Bi-State Long Island Sound Commission (VETOED, OVERRIDDEN)

This act creates a Bi-State Long Island Sound Commission and limits the responsibilities of the Bi-State Long Island Sound Marine Resources Committee. The commission must:

1. review and consider major environmental, ecological, and energy issues involving
 - (a) Long Island Sound and
 - (b) the lower Hudson River Valley as they affect the Sound;
2. seek consensus on strategies and polices on these issues; and
3. recommend administrative and legislative action to implement the strategies and policies.

The commission is created and assumes its responsibilities when New York adopts similar legislation. The act does not replace or override the statutory or regulatory authority of any state or municipal agency concerning the commission's projects, policies, or activities.

(PA 09-151, effective July 1, 2009, and when New York enacts similar legislation)

Alternative Fuels

This act authorizes \$2 million in bonding in FY 10 for the Department of Economic and Community Development to make loans for installing new vehicle pumps or converting gas or diesel pumps to alternative fuels.

(PA 09-2, September Special Session, this provision effective upon passage)

Low-income Energy Advisory Board

By law, the Department of Social Services (DSS) must submit an annual plan and two annual reports regarding the federal Low-Income Home Energy Assistance Program block grant to the Appropriations, Energy and Technology, and Human Services committees. This act requires DSS to submit these documents to the Low-Income Energy Advisory Board at least seven days before submitting them to the committees. The plan sets eligibility criteria for energy and weatherization assistance and describes program outreach efforts, among other things. The reports describe such things as the number of households who apply for and receive assistance.

The act expands the board's responsibilities to include making recommendations to the legislature on the administration of the block grant program.

(PA 09-5, September Special Session effective upon passage)

TELECOMMUNICATIONS

Theft of Telecommunications Equipment

By law, taking property illegally is punishable by six degrees of larceny crimes, with penalties generally based on the amount of the property taken ranging from a class C misdemeanor to a class B felony. The act generally increases the penalties for taking wire, cable, or other telecommunications service equipment and causing an interruption in emergency telecommunications service by making it 2nd degree larceny (a class C felony) regardless of the value of the property taken. Under prior law, this conduct would have been punished as a class D felony or class A, B, or C misdemeanor, depending on the property's value.

Scrap Metal Processors

The law imposes certain requirements on scrap metal processors when they receive wire that could be used in transmitting telecommunications or data. The act extends these requirements to (1) cable that could be used in transmitting telecommunications or data and (2) scrap equipment, wire, or cable that could be used in transmitting or distributing electricity by an electric distribution company. The requirements are:

1. segregating and holding the scrap for five days unless it is from (a) a registered business for demolishing buildings or (b) someone who already segregated the scrap as required by law and provides a written statement;
2. photographing the vehicle delivering the load, including its license plate, and the load of scrap; and
3. copying the vehicle's registration and recording a description of the material received and its source.

By law, violations of these provisions are a class C misdemeanor for a first violation, a class B misdemeanor for a second violation, and a class A misdemeanor for a third or subsequent violation.

(PA 09-243, effective October 1, 2009)

Connecticut Television Network

This act eliminates requirements that companies providing cable TV service under two types of certificates transmit the Connecticut Television Network (CTN) to all of their subscribers, including real-time transmission as technically feasible. These certificates have superseded traditional cable TV franchises.

Under current law, the money in the public, educational and

governmental programming and educational technology account is used for various purposes including supporting community (public, educational, and governmental) access TV and educational technology. The act requires that, when the balance of this account exceeds \$150,000, DPUC must make a one-time transfer of \$150,000 from the account to the Office of Legislative Management. Legislative Management must use this money for expenses related to connecting CTN with competitive video service providers in order to make CTN available to their subscribers (these providers include AT&T and certain cable TV companies).

The act specifies that CTN is the General Assembly's statewide 24-hour public affairs programming service, separate and distinct from community access channels. The latter phrase appears to mean that CTN does not count as an access channel under the statutes. Thus, it appears that the act excludes CTN from the law that requires cable TV companies to carry all of their community access channels in their basic service package.

(PA 09-7, September Special Session these provisions effective upon passage)

WATER COMPANIES

Infrastructure Construction

This act requires water companies designated as exclusive service area providers to confirm in writing that they (1) have received the applications for public water supply certificates of need and public convenience submitted to DPH and DPUC and (2) are prepared to assume responsibility for the system. It requires the departments, when deciding whether to issue a certificate, to consider whether the system's owner has the financial, managerial, and technical resources to operate it efficiently and reliably and provide continuous, adequate service to consumers.

It requires water company supply plans to include a brief summary of the company's underground infrastructure replacement practices. It lengthens, to between six and nine years from between three to five years, the time between required plan revisions, in most cases.

(PA 09-220, effective October 1, 2009)

Leases of Class I Land

This act allows the DPH commissioner to grant a permit for the lease of class I land associated with a groundwater source for use for public drinking water purposes to another water company that serves 1,000 or

more persons or 250 fifty or more customers and maintains an approved water supply plan, so long as the lessee demonstrates that the lease will improve conditions for the existing public drinking water system and will not significantly harm the present and future purity and adequacy of the public drinking water supply. Any water company requesting this permit may be required to convey an easement that provides for the protection of the public water supply source and must submit this easement and any provisions of the lease that pertain to the protection of the public water supply to the commissioner for approval.

(**PA 09-232**, these provisions effective upon passage)

KM:df