



# Acts Affecting Energy & Utilities

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## Notice to Readers

This report summarizes laws passed during the 2017 regular legislative session affecting energy and utilities. In each summary, we indicate the public act (PA) number. We do not include vetoed public acts, unless the legislature overrode the governor's veto.

Not all provisions of the acts are included. Complete summaries of all 2017 Public Acts will be available on OLR's webpage: <http://www.cga.ct.gov/olr>.

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.ct.gov/default.asp>).

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## **Clean and Renewable Energy Initiatives**

### ***Anaerobic Digestion & Waste Conversion Facilities***

A new law requires the Public Utilities Regulatory Authority (PURA) to authorize additional funds for agricultural customer hosts using an anaerobic digestion renewable energy source as a virtual net metering facility ([PA 17-218](#), § 5, effective July 1, 2017).

The legislature also exempted “waste conversion facilities” (facilities that use thermal, biological, or chemical processes to convert solid waste to energy) from laws that apply specifically to resource recovery facilities (facilities that combust municipal solid waste to generate electricity). The new law also (1) includes mixed municipal solid waste composting facilities as waste conversion facilities and (2) makes waste conversion facilities that reduce more than 2,000 pounds of solid waste per hour in volume considered volume reduction plants ([PA 17-218](#), §§ 7-10, effective July 1, 2017).

### ***Commercial Property Assessed Clean Energy Program (C-PACE)***

This session, the legislature made several revisions to the C-PACE program, which provides financing for energy efficiency or renewable energy improvements on certain commercial properties in participating municipalities. Among other things, these revisions:

1. expand the purposes for which C-PACE financing may be provided,
2. allow participating third-party capital providers to provide leases and power purchase agreements, and
3. specify that (a) foreclosures on C-PACE liens are limited to late C-PACE assessment payments and (b) liens for payments that will become due in the future survive the foreclosure ([PA 17-201](#), effective October 1, 2017).

### ***DEEP Solicitation of Proposals***

The law allows the Department of Energy and Environmental Protection (DEEP) commissioner to solicit proposals from providers of Class I run-of-the-river hydropower, landfill methane gas, or biomass resources. If the commissioner finds the proposals meet certain conditions, he may direct the electric distribution companies (EDCs, i.e., Eversource and UI) to enter into long-term agreements to purchase energy, capacity, and environmental attributes, or any combination of them, to meet up to 4% of the EDCs' load (i.e. demand).

This year, the legislature expanded this procurement authority to allow the commissioner to also solicit proposals from Class I fuel cells, offshore wind, or anaerobic digestion facilities; energy storage systems; or any combination of them and the energy sources originally authorized in the procurement. The new law prohibits the commissioner from selecting proposals for more than 3%

of the EDCs' load from offshore wind resources and increases the maximum agreement duration from 10 to 20 years. It also requires DEEP's reasonable costs for the solicitation to be recovered through the non-bypassable federally mandated congestion charge on ratepayers' bills ([PA 17-144](#), § 10, effective upon passage).

### ***Kelp Oil***

The legislature passed a new law that authorizes DEEP, with the Department of Agriculture, to help businesses apply to the federal Environmental Protection Agency for approval of kelp oil as a feedstock for heating oil ([PA 17-218](#), § 6, effective upon passage).

### ***REC Program Extension***

The legislature extended, for one year, a program that requires each EDC to annually enter into 15-year contracts to procure \$8 million in RECs from certain clean energy generation projects. As under the prior requirement (which would have expired at the end of 2017), in 2018 the EDCs may procure (1) up to \$4 million in RECs from Class I generation projects that are less than 1 MW in size and emit no pollutants and (2) up to \$4 million in RECs from Class I technologies that are less than 2 MW in size and have low emissions ([PA 17-144](#), § 9, effective July 1, 2017).

## **Electric Companies**

### ***CMEEC and the Municipal Electric Consumer Advocate***

Several municipal electric utilities purchase electricity through the Connecticut Municipal Electric Energy Cooperative (CMEEC). A new law:

1. prohibits CMEEC from holding meetings, public hearings, or strategic retreats outside of the state;
2. establishes the position of municipal electric consumer advocate;
3. requires one of the people appointed to CMEEC's board by each member utility to be a ratepayer appointed by the legislative body of the municipality where the member utility operates; and
4. requires CMEEC to have a forensic examination conducted by a certified forensic auditor ([PA 17-73](#), effective October 1, 2017, except for provisions on the municipal electric consumer advocate, which are effective upon passage).

## ***EDC Fuel Cell Facilities***

A new law allows the EDCs, under certain conditions and procedures, to:

1. build, own, and operate new fuel cell generation;
2. enter into power purchase agreements (PPAs) negotiated with people to build, own, and operate new fuel cell generation; and
3. provide financial incentives to install fuel cell-powered combined heat and power systems.

The total generating capacity of all of these fuel cell projects cannot exceed 30 megawatts in the aggregate ([PA 17-144](#), § 1, effective July 1, 2017).

## ***Retail Electric Suppliers***

A new law gives customers more time to cancel a renewed contract with a retail electric supplier without paying a fee. Prior law prohibited suppliers from charging a fee if a customer cancelled a renewed contract within seven days after receiving the contract's first billing statement. The new law instead prohibits fees if the customer cancels within the renewed contract's first two billing cycles.

It also changes the conditions under which suppliers may advertise the RECs they purchase. Prior law limited suppliers' REC advertising to the RECs they purchase beyond the state's renewable portfolio standard requirements. The new law instead limits their REC advertising to a methodology approved by PURA ([PA 17-64](#), effective October 1, 2017).

## ***Tree Trimming***

A new law requires EDCs (and other utility companies) to, among other things, apply in writing to the local tree warden for permission to cut or remove trees or shrubs, when managing vegetation around utility equipment on municipal property. It subjects utilities that do not comply with this and other requirements to civil penalties of up to \$10,000 for each violation, in addition to other penalties under law. But it exempts instances when a utility prunes or removes a tree that is in direct contact with an energized electrical conduct or that has visible signs of burning ([PA 17-117](#), effective upon passage).

## **PURA Proceedings & Requirements**

### ***Elimination of PURA Administrative Proceeding Requirement***

For purchased gas adjustments, energy adjustment charges or credits, and transmission rate changes, a new law eliminates the requirement that PURA hold an administrative proceeding to approve such changes for electric distribution and gas companies. The new law instead allows

PURA to hold a hearing and only requires it to do so if an electric distribution company, gas company, interested person, or member of the public requests it. Under the new law, the proposed change becomes effective if PURA does not approve or deny it within 15 days of receiving the company's application ([PA 17-35](#), effective October 1, 2017).

### ***PURA Determinations between Rate Cases***

A new law changes the methods PURA uses to make certain determinations between rate cases for both public utilities and water companies. For public utilities, the new law expands and realigns the timeframe PURA uses to determine when a public utility's excessive return on equity requires PURA to determine the need for an interim rate decrease.

For PURA-regulated water companies, the new law changes the action PURA must take if the water company exceeds its allowable rate of return. Instead of resetting a separate adjustment to zero, PURA must establish an earnings sharing mechanism that allows the excess return on equity to be shared equally between ratepayers and shareholders ([PA 17-138](#), effective October 1, 2017).

### ***Telephone Company Filing Requirements***

By law, public utilities must have an annual audit conducted by independent public accountants and submit the audit report to PURA. A new law allows telephone companies to disregard this requirement if they instead file with PURA:

1. the annual consolidated report the telephone company's parent company submits to the U.S. Securities and Exchange Commission on the commission's Form 10-K (a report on the company's performance), provided the report includes an independently audited financial statement of the parent company; and
2. if the company serves more than 75,000 customers, unaudited financial statements on operations specific to Connecticut ([PA 17-45](#), effective upon passage).

## **Renewable Portfolio Standard (RPS)**

### ***Class II RPS***

The law designates certain types of renewable energy facilities as Class I, II, or III sources and, through the RPS, requires EDCs and electric suppliers to use specified amounts of energy from each class.

A new law changes the Class II RPS to:

1. limit the types of facilities considered as Class II renewable energy sources to only trash-to-energy facilities with certain permits;

2. increase the RPS requirement so that EDCs and retail electric suppliers must purchase 4%, rather than 3%, of their power from either Class I or Class II sources; and
3. lower the alternative compliance payment for EDCs and suppliers that fail to do so ([PA 17-144](#), effective upon passage).

### ***RPS and the Fifth Quarter***

A new law removes a provision in prior law that allowed EDCs and suppliers to make up a deficiency in meeting their annual RPS requirements in the first three months of the following calendar year, or otherwise as specified under New England Power Pool rules ([PA 17-186](#), effective July 1, 2017).

## **Water**

### ***Independent Consumer Advocate for MDC Customers***

A new law establishes an independent consumer advocate to advocate for and represent Metropolitan District Commission (MDC) customers in all matters that may affect them, including rates, water quality, water supply, and wastewater service quality. The state's consumer counsel must appoint the advocate, subject to certain qualifications, and MDC must pay the advocate's costs ([PA 17-1](#), effective upon passage).

### ***South Central Connecticut Regional Water Authority***

This session, the legislature amended the South Central Connecticut Regional Water Authority's charter to, among other things, (1) allow it to invest in noncore business activities, including certain renewable energy projects and (2) set its own interest rate for delinquent charges, not to exceed the rate for unpaid property taxes ([SA 17-5](#), effective upon passage).

## **Miscellaneous Provisions**

### ***Agricultural and Environmental Impacts of Proposed Energy Projects***

A new law requires the DEEP commissioner and the Connecticut Siting Council to consider the impact of certain proposed energy-related projects, including solar projects, on the environment, prime farmland or forest land, or agriculture, before allowing them to proceed ([PA 17-218](#), §§ 1-4, effective July 1, 2017).

### ***Electric Ratepayer Impact Statements***

A new law requires the Office of Fiscal Analysis to prepare a ratepayer impact statement for any bill before the General Assembly that would, if passed, have a financial impact on electric ratepayers. The statement must assess whether the bill will have a significant direct financial impact on the



cost of electricity for the majority of Connecticut ratepayers. Beginning with the 2019 legislative session, the new law prohibits either legislative chamber from acting on a bill without a ratepayer impact statement, unless two-thirds of the chamber votes to dispense with the requirement for a statement ([PA 17-144](#), §§7 & 8, effective July 1, 2017).

### ***PEGPETIA Tax Penalties***

Cable-TV, satellite-TV, and certified video service providers now face penalties for failing to pay the 0.25% gross earnings tax that funds the public, educational, and governmental programming and education technology investment account (PEGPETIA). Under a new law, they face a maximum \$1,000 fine, maximum one year imprisonment, or both, for willfully failing to pay the tax, file returns, keep records, or provide the revenue services commissioner with required information. They also face a maximum \$5,000 fine, maximum five years imprisonment, or both (i.e., class D felony) for willfully delivering or disclosing to the commissioner or his authorized agent any list, return, account, statement, or other document known to be fraudulent or false ([PA 17-147](#), § 40, effective upon passage).

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