
OLR Bill Analysis

HB 5118

AN ACT CONCERNING WASTE MANAGEMENT AND ANAEROBIC DIGESTION.

SUMMARY

In general, the state's Renewable Portfolio Standard (RPS) requires a portion of the power supplied to electric ratepayers to come from certain renewable energy sources. Starting on January 1, 2023, this bill limits the Class II RPS requirement to only Class II renewable energy sources (i.e., trash to energy facilities). Under current law, both Class I (e.g., wind and solar) and Class II renewables may be used to meet the Class II requirement.

Starting on that same date, the bill also requires that the alternative compliance payments for failing to meet the Class II requirement be deposited into a sustainable materials management account established by the bill, rather than be refunded to ratepayers as current law requires. It requires the Department of Energy and Environmental Protection (DEEP) commissioner to establish and administer a sustainable materials management program to support solid waste reduction in the state using funds from the account.

The bill also allows the DEEP commissioner, in consultation with certain other officials, to solicit proposals for certain anaerobic digestion facilities to supply biogas for injection into the state's natural gas distribution systems. The commissioner may select proposals that meet certain criteria (e.g., are in ratepayers' best interests) and direct natural gas utility companies to enter into long-term agreements to purchase a selected facility's biogas. The Public Utilities Regulatory Authority (PURA) must review and approve these agreements, and any dispute arising from them must be brought to PURA.

The bill requires that the gas companies recover their (1) net costs for

purchasing the biogas from their ratepayers and (2) related infrastructure costs from the biogas supplier. It also requires that DEEP's reasonable costs associated with the solicitations be recoverable from gas company ratepayers.

Lastly, the bill makes a technical change to fix an incorrect statutory reference (§ 4).

EFFECTIVE DATE: October 1, 2022

§§ 1-4 — CLASS II RENEWABLE PORTFOLIO STANDARD

Under the state's current RPS law, electric distribution companies (EDCs, i.e., Eversource and United Illuminating) and electric suppliers must get 4% of their energy from either Class I or Class II renewable energy sources. Beginning January 1, 2023, the bill requires the EDCs and suppliers to meet this 4% requirement with only Class II energy sources.

By law, unchanged by the bill, the 4% requirement is in addition to the Class I RPS requirement. The Class I RPS is 24% in 2022 and increases annually until it reaches 40% in 2030.

Alternative Compliance Payments

By law, if an EDC or electric supplier fails to meet the Class II RPS requirement, it must make a 2.5 cent per kilowatt hour alternative compliance payment (ACP) for the shortfall. Current law requires that the ACP be refunded to ratepayers, but starting January 1, 2023, the bill instead requires that it be deposited in the sustainable materials management account created by the bill.

§ 5 — SUSTAINABLE MATERIALS MANAGEMENT ACCOUNT & PROGRAM

The bill establishes the sustainable materials management account as separate, nonlapsing account in the General Fund. The account must contain money collected by the Class II ACP, as described above, and the DEEP commissioner must spend it for the Sustainable Materials Management Program's purposes.

Starting January 1, 2023, the bill requires the DEEP commissioner to establish and administer the Sustainable Materials Management Program to support solid waste reduction in the state. It must do so by providing funding from the account for programs and projects that promote affordable, sustainable, and self-sufficient waste management in the state by reducing solid waste generation or diverting it from disposal, consistent with the state's solid waste management plan. The funding may be used for grants, revolving loans, technical assistance, consulting services, and waste characterization studies that support those programs and projects implemented by entities that include municipalities, nonprofits, and regional waste authorities.

The bill requires DEEP, starting by January 1, 2024, to annually submit a report to the Environment and Energy and Technology committees. The report must detail the expenditures of any funds disbursed from the account and the outcomes associated with those expenditures.

§ 6 — BIOGAS SOLICITATION

The bill allows the DEEP commissioner, in consultation with the Office of Consumer General and attorney general, to solicit proposals to supply biogas for injection into the state's natural gas distribution systems. The proposals must be from anaerobic digestion facilities that have a solid waste facility permit and produce biogas derived from the decomposition of farm-generated organic waste or source separated organic material. The commissioner may issue one or multiple solicitations, but she cannot select proposals from anaerobic digestion facilities that annually produce biogas from more than 300,000 tons of organic waste.

When selecting proposals, the bill requires the commissioner to at least consider whether the proposal (1) is in natural gas ratepayers' best interests, (2) promotes the statewide solid waste management plan's policy goals, (3) is consistent with the state's requirement to reduce greenhouse gas emissions, and (4) promotes natural gas distribution system benefits.

She must also consider (1) any positive impacts on the state's economic development, including those on the agricultural industry, and (2) the relevant facility's characteristics, including whether the proposed gas conditioning system and biogas comply with state interconnection standards for biogas.

Gas Purchasing Agreements

The bill allows the commissioner to direct gas utility companies, on behalf of the state's gas companies' customers, to enter into an agreement to purchase biogas and associated attributes from a selected proposal's biogas supplier.

The agreements may have a term of up to 20 years, and PURA must review and approve them. The bill requires PURA to finish the review within 120 days after the agreement is filed. It must approve the agreement if it is in ratepayers' best interest and meets the solicitation proposal criteria described above.

Gas Company Cost Recovery

The bill requires that a gas company's reasonable costs incurred in negotiating and executing an agreement, and the net costs for the biogas supplied under it, be recovered from all the company's customers through the purchased gas adjustment clause on gas bills. Any net revenue from selling products purchased under the agreement must be credited to customers through the same fully reconciling rate component for all the company's customers. Any of these net costs or revenues must be apportioned proportionally to each contracting gas company's annual revenues as reported to PURA for the most recent fiscal year.

The bill also requires that a gas company's costs related to building, operating, and maintaining the infrastructure arising from the agreement be recovered from the biogas supplier through a contribution in aid of construction charge or other provision of the agreement. When PURA approves the gas purchasing agreement, it must identify and approve any costs not recoverable from the biogas supplier. These prudently incurred costs must be recovered through an existing rate

tracking mechanism for recovering natural gas infrastructure investments or, if no mechanism currently exists, through a new rate tracking mechanism that PURA establishes.

Under the bill, a gas company can choose to (1) use the renewable natural gas it procured through an agreement to meet its customers' needs or (2) sell it into applicable markets or through bilateral contracts with third parties, reflecting the net benefits or costs in the purchased gas adjustment clause on their customers' bills.

DEEP Cost Recovery

The bill allows the DEEP commissioner to retain consultants to help implement its provisions, including evaluating the proposals. It requires that all reasonable costs associated with a solicitation and review be recoverable from ratepayers through the same fully reconciling rate component for all customers of the gas companies. These costs must be recoverable even if the commissioner does not select any proposals.

Contract Disputes

The bill requires that parties bring to PURA contract disputes for contracts approved under the bill's provisions. A party may petition PURA for a declaratory ruling or apply for review. The bill prohibits PURA from initiating a contract review proceeding on its own.

Under the bill, PURA must review any of these contract disputes and may decide it by issuing a declaratory ruling or a final decision in a contested case proceeding, including ordering legal and equitable remedies. A party to the contract may appeal the declaratory ruling or final decision to the Superior Court.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 6 (03/22/2022)