OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY

PA 19-35—HB 5002
Energy and Technology Committee
Appropriations Committee

AN ACT CONCERNING A GREEN ECONOMY AND ENVIRONMENTAL PROTECTION

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§§ 1-2 & 4-5 — EXTENSIONS OF EXISTING PROGRAMS

Extends existing renewable energy programs, including traditional net metering, the REC program, and the Green Bank's Residential Solar Investment Program

Traditional Net Metering Extension (§ 1)

The state's net metering program generally allows customers that own certain renewable energy resources to earn billing credits when they generate more power than they use. Customers' generation and usage is netted on a monthly basis, and they receive billing credits for their monthly excess generation at the retail electric rate (essentially "running the meter backwards").

Under prior law, opportunities to begin this type of net metering would have ended for (1) residential customers when the Green Bank's Residential Solar Investment Program expires (see below) and (2) all other customers when the Public Utilities Regulatory Authority (PURA) approves the procurement plan for new zero-emission, low-emission, and shared clean energy programs required under PA 18-50. The act instead requires that opportunities to begin this type of net metering end for all types of customers on December 31, 2021.

Under prior law, customers that began traditional net metering before it sunset could continue to use it until December 31, 2039, after which they would be subject to a PURA-determined rate. The act extends this authorization by two years, to December 31, 2041, and specifies that customers that have a PURA-approved contract under the renewable energy credit (REC) program (see below) before December 31, 2021, may similarly continue traditional net metering until 2041.

REC Program Extension (§ 2)

Under the state's REC program (i.e., "L-REC/Z-REC"), electric distribution companies (EDCs) (i.e., Eversource and United Illuminating) must annually enter into 15-year contracts to procure $8 million in RECs from certain low-emission (L-REC) and zero emission (Z-REC) clean energy generation projects each year. The requirement is cumulative (i.e., an $8 million procurement commitment for a particular year is added to any such commitment previously made for that same year). The act extends this requirement, which was previously scheduled to expire after 2019, for an additional two years.

Under prior law, the program generally required EDCs to file for PURA's approval contracts for up to $4 million annually in RECs from zero emission projects and up to $4 million annually in RECs from low emission projects. For the two years extended under the act, the act retains the zero emission requirements but expands eligibility for the remaining $4 million to include either low emission projects or projects that use anaerobic digestion and are less than two megawatts (MW) in size. By law, zero emission projects are Class I generation projects that are less than 1 MW in size and emit no pollutants, and low emission projects are Class I technologies that are less than 2 MW in size and have low emissions (i.e., up to 0.07 pounds per megawatt-hour (MWh) of nitrogen oxides, 0.10 pounds per MWh of carbon monoxide, 0.02 pounds per MWh of volatile organic compounds, and one grain (presumably of particulate matter) per 100 standard cubic feet).

As under existing law, all projects must be on the customer's side of the meter and serve the EDC's distribution system. By law, any unallocated money for the program's procurements expires when PURA approves the procurement plan for the new zero-emission, low emission, and shared clean energy programs required under PA 18-50.

The law establishes a $350 price cap per REC but, beginning in 2013, allowed PURA to decrease the cap by 3% to 7% annually in subsequent years. For contracts entered into in calendar years 2020 and 2021, the act allows PURA to decrease the price cap by 64% at least 90 days before EDC solicitation (i.e., the same cap that applied in 2019). As was the case for past program years, PURA must (1) provide notice and an opportunity for public comment and (2) consider factors such as the actual bid results from the most recent solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

Residential Solar Investment Program Extension (§§ 4 & 5)

The Residential Solar Investment Program, administered by the Connecticut Green Bank, offers financial incentives to residential households that purchase or lease certain residential solar photovoltaic systems and requires the EDCs to purchase the renewable energy credits produced through the program. Under prior law, the program expired on December 31, 2022, or when it deployed 300 MW of residential solar photovoltaic installations, whichever occurred earlier. The act increases the MW threshold that triggers the program's expiration from 300 MW to 350 MW.

The act also correspondingly extends the expiration of EDC solar home

renewable energy credit (SHREC) purchasing requirements to 350 MW deployed or December 31, 2022, whichever occurs earlier. By law, revenue from the SHREC program funds the Residential Solar Investment Program (CGS §16-245ff(g)).
EFFECTIVE DATE: Upon passage

§§ 3 & 6 — NEW RENEWABLE ENERGY PROGRAMS AND STUDY

Requires PURA to study the value of distributed energy resources and take findings into account when determining tariffs for new renewable programs required under PA 18-50; delays certain related deadlines; and allows for a longer netting period

The law (as enacted by PA 18-50) generally requires the Department of Energy and Environmental Protection (DEEP) and PURA to establish new tariff-based programs through which EDCs must purchase energy and RECs from qualifying (1) low-emission, zero-emission, and shared clean energy facilities and (2) residential customers with clean energy facilities. In developing these programs, the agencies and EDCs must, among other things, develop (1) a procurement plan for the EDCs to procure qualifying energy and RECs and (2) the tariffs (detailed rate schedules and rules) under which energy and RECs would be purchased.

Value of Distributed Energy Resources Study (§§ 3 & 6)

By July 1, 2019, the act requires DEEP and PURA to open a proceeding to jointly study the value of distributed energy resources. By law, distributed energy resources include customer-side and grid-side Class I (e.g., wind or solar) or Class III resources (e.g., certain combined heat and power systems) (CGS § 16-1(a)(49)). They must report the study's findings to the Energy and Technology Committee by July 1, 2020. The act also requires PURA to consider the study's findings when determining tariffs for certain new renewable energy programs established under PA 18-50 (see below).

Low-emission and Zero-emission Programs (§ 3)

The law requires PURA to begin a proceeding to establish tariffs for the new low-emission and zero-emission programs. In this proceeding, PURA must establish the time period that will be used to calculate the net amount of energy produced by a facility and not consumed. Under prior law, this time period had to be (1) in real time (i.e., simultaneous generation and use); (2) one day; or (3) any fraction of a day. The act allows PURA to establish a netting period that is longer than one day, up to and including one month. It also requires PURA to consider the findings of the act's distributed generation study (see above) in the proceeding.

The act extends, from July 1, 2020, to July 1, 2022, the deadline for each EDC to begin soliciting and filing for PURA's approval the low-emission, zero-emission, and shared clean energy projects it selected under the procurement

plans that are consistent with PURA-approved tariffs.

Residential Program (§ 3)

Prior law similarly required PURA to open a proceeding to establish tariffs for the new residential clean energy program. The act extends the deadline for PURA to do this from September 1, 2019, to July 1, 2020.

As with the proceeding to establish low-emission and zero-emission tariffs, the law requires that PURA's proceeding for the residential tariffs determine the time period that will be used for calculating the net amount of energy produced by a facility and not consumed. The act (1) allows PURA to additionally establish a netting period that is longer than one day, up to and including one month, and (2) requires PURA to consider the findings of the act's distributed generation study in the proceeding.

The act requires (1) PURA to issue a final decision in the proceeding by July 1, 2021, and (2) EDCs to offer the new tariffs to residential customers beginning January 1, 2022, rather than when the Green Bank's Residential Solar Investment Program expires.

EFFECTIVE DATE: Upon passage

§ 7 — VIRTUAL NET METERING CREDIT CAP

Increases, from $10 million to $20 million, the amount of credits authorized under the state's virtual net metering program

The act increases, from $10 million to $20 million, the aggregate cap on virtual net metering credits.

Under existing law, net metering allows an EDC customer that owns a renewable energy resource to earn billing credits when the resource generates more power than the customer uses. Virtual net metering allows the customer to share these credits to lower the electricity bills of other "beneficial accounts" the customer designates.

Existing law requires PURA to apportion credits authorized under the cap to EDCs based on their loads. Each eligible customer type (municipal, state agency, and agricultural) is further limited to 40% of the allowed credits. The law also authorizes additional credits above the cap under certain circumstances (e.g., anaerobic digestion for agricultural customers).

EFFECTIVE DATE: Upon passage

§ 8 — LAND INVENTORY

Requires DOT to prepare an inventory of its land that is suitable for installation of Class I resources; requires DEEP to analyze DOT's land inventory; allows DEEP to grant preference in certain procurements for proposals that use such land

The act requires the Department of Transportation (DOT), by December 1, 2020, to conduct a preliminary screening of land that it owns to (1) identify any

land suitable to site Class I renewable energy sources (e.g., wind and solar) and (2) evaluate its suitability. DOT must submit an inventory of such land to DEEP.

The act requires DEEP to analyze the land included in DOT's inventory, including a technical, legal, and financial feasibility analysis, and consider:

1. setback requirements;
2. access to the land;
3. the land's physical and environmental characteristics;
4. the development characteristics of a Class I renewable energy source;
5. current and future transportation needs;
6. the eligibility of Class I renewable energy sources that may be installed on the land for net metering, virtual net metering, renewable energy tariffs, and grid-scale solicitation programs; and
7. other relevant feasibility factors.

Existing law allows DEEP to solicit proposals for various types of Class I renewable energy sources and direct the EDCs to enter into contracts under selected proposals. Under the act, for any solicitations issued after DEEP analyzes DOT's land inventory, DEEP may give preference to proposals that use land included on DOT's inventory and determined by DEEP to be feasible for siting Class I renewable energy sources.

EFFECTIVE DATE: Upon passage

§§ 9 & 10 — THERMAL ENERGY PORTFOLIO STANDARD

Requires that the next IRP include recommendations for, rather than consider, creation of a portfolio standard for thermal energy

The act requires that the next Integrated Resources Plan (IRP), due by January 1, 2020, include recommendations for creating a portfolio standard for thermal energy, rather than consider its creation. DEEP must consult with heating oil industry representatives and biodiesel producers in developing its recommendations, just as prior law required it do in considering the thermal portfolio standard.

By law, DEEP, in consultation with the EDCs, develops the IRP every two years by reviewing the state's energy capacity and needs and developing a plan for procuring various energy resources (CGS § 16a-3a). The act specifies that the next IRP is due by January 1, 2020. (PA 19-71 also specifies a January 2020 deadline for the IRP and requires it to determine the timing, schedule, and energy amounts for offshore wind procurements.)

EFFECTIVE DATE: Upon passage

§ 11 — GREEN BUILDING CONSTRUCTION STANDARDS

Establishes new requirements for DEEP regulations on energy efficiency for certain state-funded construction projects, including public school facilities

Existing law requires that DEEP regulations establish green building construction standards for the following types of projects:

1. new state facility construction projected to cost at least $5 million for which all budgeted project bond funds are allocated by the State Bond Commission on or after January 1, 2008;
2. state facility renovations projected to cost at least $2 million in state funding, approved and funded after January 1, 2008;
3. new public school building construction projected to cost at least $5 million, of which at least $2 million is state funding authorized by the legislature on or after January 1, 2009; and
4. public school facility renovations projected to cost at least $2 million in state funding authorized by the legislature on or after January 1, 2009.

Prior law required that the regulations establish state building construction standards that achieve at least 75 points on the U.S. Environmental Protection Agency's national energy performance rating system, as determined by its Energy Star Target Finder Tool. The act requires DEEP to adopt new regulations for the state building construction standards by January 1, 2020, but requires that the previous regulations remain in effect until the new ones are adopted.

Under the act, the new standards must be based on a nationally recognized model for sustainable construction codes that promotes the construction of high performance green buildings that:

1. have reduced emissions;
2. have enhanced building occupant health and comfort;
3. are designed to conserve water resources;
4. are designed to promote sustainable and regenerative materials cycles; and
5. provide enhanced resilience to natural, technological, and human-caused hazards.

As under prior law, (1) the standards must include a provision for electric vehicle charging stations and (2) DEEP may update the standards as the commissioner deems necessary.

Existing law requires the DEEP commissioner, in consultation with the Department of Administrative Services (DAS) commissioner and the Institute for Sustainable Energy, to exempt facilities from the regulations if the DEEP commissioner, in consultation with the Office of Policy and Management secretary, finds that it would not be cost effective to comply. The act requires the DEEP commissioner to also consult with the DAS commissioner on the cost effectiveness finding.

The act removes provisions that (1) require DEEP, in consultation with DAS, to exempt facilities from complying with these standards if the facility cannot be defined as an eligible building type in the Energy Star Target Finder tool and (2) establish a separate standard for such exempted facilities.

EFFECTIVE DATE: Upon passage

§ 12 — DEEP CONSULTANTS

Expands DEEP's ability to retain consultants for certain state and federal proceedings

Existing law allows PURA and the Office of Consumer Counsel (OCC) to retain consultants for PURA proceedings. The act additionally allows DEEP to

retain consultants to assist the department's staff during PURA proceedings under the same circumstances and limits that apply to PURA and OCC consultants (see BACKGROUND). As under existing law for OCC and PURA, DEEP generally may not hire a consultant for telecommunications proceedings that is also consulting for the affected company.

Existing law already allows DEEP, in consultation with PURA and OCC, to retain consultants to supplement staff expertise for proceedings before or negotiations with various federal agencies (e.g., the Federal Energy Regulatory Commission (FERC) and the U.S. Department of Energy). The act additionally allows DEEP, in consultation with PURA and OCC, to retain consultants for Federal Communications Commission (FCC) proceedings under the same circumstances and limits that apply to DEEP and PURA consultants for other federal agency proceedings (see BACKGROUND).

EFFECTIVE DATE: October 1, 2019

§ 13 — EDC OWNERSHIP OF ENERGY STORAGE SYSTEMS

Explicitly allows EDCs to own energy storage systems and allows them to recover from ratepayers prudently incurred costs for these systems

Existing law prohibits EDCs from owning or operating generation assets, with certain exceptions. Under the act, this prohibition does not apply to EDCs building, owning, or operating energy storage systems (e.g., battery storage). Similarly, the act specifies that provisions in existing law allowing EDCs to submit proposals to DEEP to build, own, or operate storage as part of a grid-side system enhancement pilot program do not prohibit or limit an EDC's ability to build, own, or operate storage.

By law, energy storage systems are any commercially available technology capable of absorbing energy, storing it for a period of time, and thereafter dispatching it, among other things (CGS § 16-1(a)(48)).

The act allows PURA to authorize an EDC to recover its prudently incurred costs and investments for any energy storage system it builds, owns, or operates. EDCs may do so through a fully reconciling component of electric ratepayer bills until the EDC's next rate case, when the EDC must recover the cost through its base distribution rates.

EFFECTIVE DATE: Upon passage

§ 14 — RESIDENTIAL FURNACES, BOILERS, AND PROPANE TANKS

Extends the EnergizeCT Heating Loan Program through 2024

The act extends, for five additional years, the duration of a financing program for residential furnace and boiler replacements and propane fuel tank purchases or leases (i.e., the EnergizeCT Heating Loan Program). Under prior law, the program was scheduled to expire at the end of its sixth year (2019). The act instead sunsets the program at the end of its eleventh year (2024). By law, the program is funded through the systems benefits charge on ratepayer bills.

EFFECTIVE DATE: Upon passage

§§ 15-17 — ANAEROBIC DIGESTION AT ANIMAL FEEDING OPERATIONS

Exempts certain anaerobic digestion facilities at animal feeding operations from DEEP permit requirements and allows the DEEP commissioner to procure up to 10 MW of energy and related products from such facilities

Exemption from Permit Requirement (§§ 15 & 16)

The act exempts certain anaerobic digestion facilities from the requirement to obtain a permit from DEEP to construct and operate a solid waste facility.

In order to be exempt, such facilities must be collocated with an animal feeding operation, which, under the act, is a lot or facility on a farm, other than an aquatic animal production facility, where (1) animals have been, are currently, or will be stabled or confined and fed or maintained for a total of at least 45 days in a 12-month period and (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of such lot or facility.

In addition, exempt facilities must (1) use feed stock that is at least 50% by volume farm-generated organic waste from an animal feeding operation (e.g., animal bedding, manure, urine, silage, leachate, wastewaters associated with egg or dairy production, animal feed waste, and barnyard runoff) and not more than 5% by volume food scraps, food processing residuals, and soiled or unrecycled paper and (2) put any discharge from the facility that is not an energy end product (i.e., material end products) to specified beneficial uses. Specifically, the act requires that liquid material end products be used as fertilizer and solid material end products be used for animal bedding, soil or soil amendment, fertilizer, or other value-added products. Under the act, any discharge applied to land in Connecticut must be applied at an agronomic rate consistent with the nutrient management plan on the farm where the facility is located.

The act requires animal feeding operations that are collocated with an exempt facility to submit to the DEEP commissioner, annually by July 31, the amount of farm-generated organic waste that is processed by the facility. They must indicate the amount of waste processed from the animal feeding operation and from other sources on a form DEEP prescribes.

Enforcement (§§ 15 & 16)

The act authorizes the agriculture commissioner to inspect anaerobic digestion facilities operating under this exemption to ensure that the facilities comply with the requirements described above. If the commissioner finds facilities that are not in compliance, he must report his findings to the DEEP commissioner.

Under the act, if DEEP determines that a facility is operating without a permit but is not collocated with an animal feeding operation or is processing more than 5% by volume food scraps, food processing residuals, and soiled or unrecyclable

paper, the facility's operator must apply for a DEEP permit within five days after receiving notice of the commissioner's determination. If the permit application is denied, the facility must close within five days after receiving notice of the denial.

The act allows DEEP to adopt regulations to carry out the act's provisions on exempt facilities.

Anaerobic Digestion Procurement (§ 17)

The act allows the DEEP commissioner, in consultation with the state's electric procurement manager, OCC, and the attorney general, to conduct one or more solicitations for energy derived from anaerobic digestion. (PA 19-117, § 79, eliminates the statutory procurement manager position and instead requires PURA's chairperson to assign authority staff to fulfill the procurement manager's duties where required in the energy statutes.) The act requires bidders to submit one or more proposals for facilities that are animal feeding operations and located on farm land.

The act allows the DEEP commissioner to select proposals from resources with a total nameplate capacity of up to 10 MW in the aggregate if she finds proposals to be:

1. in ratepayers' interest, including the delivered price;
2. consistent with the state's greenhouse gas reduction requirements; and
3. in accordance with policy goals outlined in the state's Comprehensive Energy Strategy and statewide solid waste management plan.

The act allows the DEEP commissioner to direct the EDCs to enter into power purchase agreements for any combination of energy, capacity, and environmental attributes (e.g., RECs) for up to 20 years. EDCs may retain the RECs to meet their requirements under the state's renewable portfolio standard or sell the RECs to suppliers or other EDCs to use to meet their renewable portfolio standard requirements. The act requires EDCs, when deciding whether to sell or retain RECs, to select the option that is in ratepayers' best interest.

Under the act, power purchase agreements are subject to PURA's review and approval. The act requires PURA to begin its review when the agreement is filed and issue a decision within 60 days. The agreement is deemed approved if PURA does not issue a decision within this timeframe.

The act requires EDCs to recover the net costs of the agreement through a fully reconciling component of electric rates for all customers, including the EDCs' costs under the agreement and reasonable costs incurred in connection with it. EDCs must credit customers for any net revenues from the sale of products purchased under the agreement in the same rate component.

The act also allows the DEEP commissioner to hire consultants with expertise in quantitative modeling of gas and electric markets to assist in implementing the solicitation and procurement, including proposal evaluation. The act requires that DEEP's costs associated with the solicitation and review of proposals be recovered through the same component of ratepayer bills.

EFFECTIVE DATE: Upon passage

§ 18 — BIOGAS INTERCONNECTION STANDARD

Requires PURA to adopt a gas quality interconnection standard for biogas derived from farm-generated organic waste or certain source separated organic material

The act requires PURA to initiate a docket, by October 1, 2019, to define and adopt a gas quality interconnection standard for biogas derived from the decomposition of farm-generated organic waste or source-separated organic material that has been processed through gas conditioning systems to remove impurities (e.g., carbon dioxide, hydrogen sulfide). The act requires that the standard ensure that the biogas is suitable for injection in the state's natural gas distribution system.

The docket must also include cleanliness standards for the biogas and a process by which biogas producers may request and be approved for interconnection to the state's natural gas distribution system. PURA must issue a final decision in the docket by September 1, 2021.

EFFECTIVE DATE: Upon passage

§§ 19 & 20 — GREEN JOBS CAREER LADDER

Requires the Office of Workforce Competitiveness, in consultation with other entities, to establish a career ladder for jobs in the green technology industry and requires DOL and OHE to publish it on their websites

The act requires the Office of Workforce Competitiveness, in consultation with the Office of Higher Education (OHE), State Department of Education (SDE), Department of Labor (DOL), DEEP, regional workforce development boards, and employers to establish a career ladder by January 1, 2020, for jobs in the green technology industry and update it as needed. Under the act, the career ladder must list:

1. careers at each level of the green technology industry and the requisite level of education and salary offered for each career;
2. all course, certificate, and degree programs in green jobs offered by technical education and career schools within the Technical Education and Career System and higher education institutions in Connecticut; and
3. green technology industry jobs available in Connecticut.

The act makes a corresponding change by requiring OHE and DOL to publish the green jobs career ladder on their respective websites by July 1, 2020. Prior law instead required OHE, in consultation with SDE, to annually publish on OHE's website green jobs courses and degree and certificate programs offered by technical education and career schools and public higher education institutions.

The act also requires OHE and DOL to each publish on their respective websites by July 1, 2020, an inventory of green jobs-related equipment used by technical education and career schools and higher education institutions. Prior law required OHE only, in consultation with SDE, to publish this inventory on its website.

EFFECTIVE DATE: July 1, 2019

BACKGROUND

Consultants for PURA Proceedings

By law, PURA and OCC may retain consultants to assist in PURA proceedings if they lack existing staff expertise. Expenses for the consultants are borne by the companies affected by the proceeding and must be paid as PURA or OCC directs. The companies may comment on the need for a consultant and request a hearing. Unless there is good cause, the agencies' expenses for consultants cannot exceed:

1. $200,000 per agency per proceeding for companies with more than 15,000 customers and
2. $50,000 per agency per proceeding for companies with fewer than 15,000 customers.

The law requires PURA to consider these expenses proper business expenses for purposes of rate making (which allows those companies subject to rate regulation to recover these expenses through their rates (CGS §16-18a(a)).

Consultants for Federal Proceedings

The law allows DEEP, in consultation with PURA and OCC, to retain consultants to assist in proceedings before the following federal agencies:

1. FERC,
2. U.S. Department of Energy,
3. U.S. Nuclear Regulatory Commission,
4. U.S. Securities and Exchange Commission,
5. Federal Trade Commission, and
6. U.S. Department of Justice.

PURA may also retain consultants for FCC proceedings.

For both agencies, the law requires companies affected by the proceedings to bear the cost in proportion to their revenue and limits such expenses to $2.5 million per year unless PURA finds good cause to exceed that limit. PURA must consider these expenses proper business expenses for purposes of rate making (for those companies subject to rate regulation) (CGS § 16-18a(c)).