Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

SB 591-FN, allowing utility companies to own or build generation facilities.

Hearing Date: January 27, 2026

Time Opened: 9:10 a.m. **Time Closed**: 11:06 a.m.

Members of the Committee Present: Senators Avard, Pearl, Watters and Rosenwald

Members of the Committee Absent : Senator McConkey

Bill Analysis: This bill authorizes limited exceptions allowing electric distribution utilities to construct or own generation facilities in New Hampshire, subject to approval by the public utilities commission.

Sponsors:

Sen. Avard	Sen. Lang	Sen. Pearl
Sen. Carson	Sen. Birdsell	Rep. Notter

Who supports the bill: 4 individuals signed in support of the legislation. Please Contact Joshua.Schauer@c.nh.gov for more information.

Who opposes the bill: 9 individuals signed in opposition of the legislation. Please Contact Joshua.Schauer@c.nh.gov for more information.

Who is neutral on the bill: 2 individuals signed neutral on the legislation. Please Contact Joshua.Schauer@c.nh.gov for more information.

Summary of testimony presenteD:

Senator Kevin Avard, District 12

- Senator Avard introduced the bill as the prime sponsor. The bill would allow utility companies to own and generate electric facilities, authority they currently do not have in New Hampshire.
- He stated that additional electric generation is needed both statewide and across the country. He also argued that the current regulatory process and existing standards have not been effective in lowering energy prices for consumers.

- Senator Avard introduced Amendment 2060s, which revises the bill's language to clarify the limits on utility ownership of generation. As amended, utility ownership of generation facilities is generally prohibited, except as provided in subparagraphs A and B.
- Under subparagraph B, utilities may own and build electric generation facilities subject to specific conditions. Any such facility shall not exceed 400 megawatts in capacity, and the Public Utilities Commission (PUC) must approve any ownership, provided it serves the interests of the community and ratepayers.
- He further explained that utilities are already guaranteed a rate for transmission. He stated that enacting this bill would prevent utilities from having an unfair advantage over other companies and emphasized that the bill does not guarantee a rate of return for generation ownership.

Senator Rosenwald asked whether the utilities had requested the bill.
Senator Avard responded that they had not.
Senator Rosenwald then asked whether the Department of Energy had asked Senator Avard to draft the legislation.
Senator Avard again responded that they had not.
Senator Rosenwald inquired whether the Public Utilities Commission (PUC) had requested the bill.
Senator Avard replied that they had not.
Senator Watters asked, Referring to line 18 of the bill amendment, if he could assume that the current practice is based on levelized cost of energy, and that constructing one type of generation would cost more than another. He asked for clarification on whether that cost difference would be a factor in approving such a plant.

Senator Avard said yes.

Senator Rosnewald referred to line 17, she asked what the "share of lead served in NH" means.

Senator Avard deferred to the technical experts as he was unsure.

Alec Omeara, Until

- Mr. Omera stated that Unitil has no formal position on the bill. He said that there are currently no projects in the works.
- Unitil has expressed interest in exploring the construction and ownership of its own generation facilities, while noting that the Kingston solar array demonstrates how similar projects are currently allowed in New Hampshire through third-party ownership under existing statute.
- He emphasized that any amendment language should not conflict with or change current statutes in a way that would prevent the development of similar projects in the future.

- He stated that such projects could help ease costs for ratepayers and that Unitil remains open to the concept of generation, depending on how it affects their overall business interests.

Senator Watters asked about energy costs across the country and whether solar is considered the cheapest energy source.

Mr. O'Meara responded that he was not certain whether solar is the most affordable option overall and was not in a position to make a definitive comparison among energy sources. However, he did acknowledge that the Kingston solar array has demonstrated a cost benefit and has provided measurable value within the existing framework.

Senator Watters referred to a project in Maine and the associated cost savings achieved through solar generation. He asked whether it would be fair to say that approximately 80 percent of projects nationwide had been solar.

Mr. O'Meara responded that he was not certain about the specific national breakdown of projects and could not confirm that figure. However, he stated that solar projects have been helpful to ratepayers and can provide meaningful cost savings where they are implemented.

Molly Connors, NEPGA

- She spoke in opposition to the bill, stating that while she appreciated the sentiment behind encouraging more energy generation in New Hampshire, utilities in the state do not currently own significant generation facilities and most have not historically operated in that business.
- She emphasized that power generation is a high-risk market and that owners of power plants are specialized experts in that field, with the experience and risk tolerance required to manage those assets effectively.
- Ms. Connors argued that allowing utilities to own and build power plants would not necessarily speed up construction timelines or lower costs for consumers, and that the proposal would not address the underlying challenges associated with project development.
- She raised concerns that the bill could shift the financial risk of poor or unsuccessful investments onto ratepayers rather than keeping that risk with private developers.
- She also noted that recent increases in energy costs have largely not been related to distribution infrastructure, suggesting that the bill would not address the primary drivers of recent rate increases.

Senator Rosenwald asked for clarification on the language "share of lead served in New Hampshire" and what that phrase was intended to mean.
Ms. Connors interpreted it as referring to "load served" but suggested that it may have been an error in the text.

Senator Watters noted that utilities could choose to partner with other entities to build a facility, rather than owning it outright, and that the language would allow utilities to pursue that option if they chose.
Ms. Connors responded that, under current law, nothing prevents utilities from creating subsidiaries to pursue generation projects. She added that in New England, many of her members already own and operate generation assets, or own operating companies that manage those facilities within the region.
Senator Avard then asked whether, if utilities entered the generation market, they would be competing with Ms. Connors' members.
Ms. Connors confirmed that utilities would indeed be competing with her members, however she noted that her members already compete with one another in the existing market.
Senator Avard clarified that, in his view, allowing utilities to participate in generation would simply add another competitor to the marketplace without a guaranteed rate of return, rather than fundamentally changing the competitive landscape.
Ms. Connors said that line 5 emphasizes the current state of affairs that they could start a subsidiary and build a power plant.

Senator Avard asked whether the proposal would create a monopoly and give the utilities an unfair advantage in the market.

Ms. Connors responded that it would actually introduce a monopoly into the market. She explained that her members are unable to recover costs from consumers, while utilities can pass those costs on to ratepayers. As a result, utilities are able to subsidize their projects, covering expenses such as attorneys and project managers, which would give them a significant competitive advantage if they were allowed to enter this field.

Senator Avard asked her to clarify the point she was making.

Ms. Connors stated that utility companies are able to recover all prudently incurred costs, including rent and overhead. She explained that utilities can pass these costs on to consumers and then use those funds to enter the electric distribution market, while her clients cannot recover costs from consumers. She urged regulators to ensure that utilities are not using consumer funds to subsidize their merchant businesses, noting that this type of monopoly power is difficult to regulate.

Senator Avard expressed concern about the high costs currently borne by ratepayers and asked, generally, how the state plans to lower rates and invest in cost-relief measures. He explained that the bill reflects his proposed approach to reducing costs and then asked Ms. Connors what solutions she would offer to address the situation.

Ms. Connors said she is speaking on what she knows which is how to incentivize power plants that are not on the back of repairs. She said there are better experts to speak on the distribution and transmission systems than her.

Senator Avard talked about guaranteed rate of return and increase transmission lines, and distribution lines. They have to change those lines if they increase. Those costs fall on the ratepayer. He emphasized new technology and adding new generation

to the market. The State is becoming more dependent on electricity and needs more generation. This allows utilities to enter the market to alleviate the costs for ratepayers. He said he is trying to find solutions to lower costs.

Ms. Connors stated that she supported the goal of lowering costs but emphasized the challenges related to electricity generation. She noted that the electric grid faces significant constraints, as demand has been increasing and the system is struggling to keep pace. However, she explained that this trend has not occurred to the same extent in New England. While demand has increased, the region has not experienced the rapid growth seen in other parts of the country. She indicated that projections of increased demand were largely based on heating and transportation electrification, and that there was currently no significant artificial intelligence driven demand in New England. She further noted that if the concern was system reliability, it was a timely issue, but demand was not increasing at a rate comparable to other regions or countries. As a result, she stated there remained sufficient time for private companies to enter the market. She cautioned that if the bill were to pass and utilities constructed billion-dollar facilities, the associated costs would ultimately be borne by ratepayers.

Senator Avard asked whether her lack of concern regarding artificial intelligence demand took into account projections ten years into the future. He noted that the bill would simply place projects in the development pipeline to help reduce costs, given that research, development, and implementation can take many years.

Ms. Connors stated that everyone seeks the lowest-cost megawatts to meet demand and that private companies are already pursuing this objective. She noted that nothing currently prevents utilities from doing the same and indicated that it would be concerning if they were not doing so.

Senator Watters referred to Amendment 0260 in the context of future generation, citing discussions at the NEPGA energy summit. He noted that major investors, including hedge funds, had expressed interest in investing in future generation in Canada as well as related transmission projects, and asked whether it was fair to characterize this as where investment capital is currently being directed.

Ms. Connors stated that the individual who made that comment at the conference was affiliated with a Canadian parent company, and that, as she recalled, there were additional factors and dynamics at play.

Senator Watters asked whether it was the case that constructing a natural gas plant typically takes five to seven years, and added that contracts had already been executed for 8.2 MW of new generation in the Gulf of Maine.

Ms. Connors stated that while leases had been signed, legal uncertainties were emerging related to the federal leases.

Senator Watters asked whether, on line 12, striking the words “own or build” and substituting the word “lease” would address her concerns by allowing utilities to enter the market in some capacity, and whether there would be any issues with that approach.

Ms. Connors he asked how the utility would recover the costs and sought clarification on what problem this approach would solve, in order to better understand his question.

Senator Watters stated that he understood and agreed with the prime sponsor's goal of lowering costs and allowing utilities to enter new markets and sectors, noting that this approach would be advantageous to ratepayers. He added by adjusting the language, he hoped that her organization would be amenable to it and support the legislation.

Ms. Connors stated that she would consider the matter further and follow up with the Senator.

James Monaghan, Dupont Group

- Spoke on behalf of David Creer, Constellation.
- He noted that a monopoly utility is expected to enter the market and expressed concerns regarding the current legislation. There are currently no restrictions preventing utilities from entering the market through subsidiaries. A model for this type of entry already exists.
- The approach to the legislation may send the wrong signal to other market participants.

Senator Watters asked whether they work with the Constellation Group or if, regarding the lease language he mentioned earlier, a partnership might be possible, and whether they would be open to that.

Monaghan responded that the bottom line is that the risk profile remains the same. He will discuss with the group and follow up.

Senator Avard noted that he tried to adjust the rate of return on line 12 and emphasized the need for more energy generation, saying that this is the most important point. He asked if it is correct to assume that nothing will happen overnight.

Monaghan confirmed that this is correct, explaining that it takes time to build and operate plants. He added that the rate of return is the primary concern for current market participants.

Clifton Below, CPCNH

- In the early 1990s, New Hampshire had the highest electricity rates in New England, prompting industry restructuring.
- The solution separated monopoly functions (transmission and distribution) from the competitive market to avoid undue cost shifts.
- Comparative data across 14 states show competitive states have lower energy costs and more growth than monopoly states; Vermont, which did not restructure, has seen significant price increases.

- Competitive markets generally result in price reductions and greater investment growth, while monopoly markets see slower growth.
- Future cost mitigation may come from small-scale solutions like micro-nuclear reactors (1–5 MW) for retail customers and local suppliers, increasing generation capacity and easing investment demands.
- In response to Senator Avard's earlier question on reducing costs, he said that large-scale reductions are limited under current utilities, but small-scale solutions like micro-nuclear reactors (1–5 MW) for retail customers and local suppliers could increase generation and help manage growing investment demand.

Senator Pearl asked about the charts and jurisdiction Mr. Below proivided, and whether introducing small nuclear reactors in industrial settings would affect residential electricity rates.

Mr. Below explained that the largest customers had seen the most benefits because they had advanced metering that tracked their individual load shapes and their contribution to peak demand. Smaller customers, who lacked this type of metering, had fewer opportunities to respond to dynamic price signals or take advantage of on-site generation. He noted that growing demand could be met with on-site resources, but the current plan has not fully leveraged this potential. Customers are on fixed long-term rates, which removes the incentives to shift usage, resulting in underutilized generation capacity. Since most costs are fixed investments, one way to lower rates was to help manage load timing, is by encouraging off-peak usage to optimize capacity and reduce per-kilowatt-hour expenses.

Senator Pearl asked if he was essentially saying that allowing large-demand users to self-generate would not lead to an increase in costs on ratepayers.

Mr. Below said potentially, yes.

Donald Kreis, Consumer advocate.

- He represents the interests of the state's residential utility customers.
- He noted that the current return on equity (ROE) for utilities is bloated. In response to Senator Avard's question on lowering rates, he recommended changing the terminology from "guaranteed rate of return" to "reasonable rate of return."
- He emphasized the need to address excessive returns for utility investors and regulators at both the state (NH) and federal levels. For example, the latest commission awarded Eversource a 9.5% ROE, whereas one commission member suggested a more reasonable return would be 8.1%, highlighting a significant difference.

Senator Avard asked who would define what's "reasonable".

Mr. Kreis explained that the commission ultimately decides on the rate of return, and that a reasonable return should reflect the level of risk. He emphasized that energy companies in New Hampshire are monopoly providers of an essential public service, and added that the idea of a 9.5% return on equity does not pass his "straight face test."

Senator Avard asked whether the legislators originally set up that system as a way to fix or control costs.

Mr. Kreis agreed with the opposition speakers that the system was restructured at great cost to ratepayers and that billions of dollars had been spent and that simply rolling it back would not achieve the desired outcomes. He emphasized that rising costs are driven primarily by distribution and transmission expenses, not the construction of new generation facilities. He also noted there is insufficient regulation of utilities, which places the Consumer advocate and ratepayers in a difficult position. Additionally, he said that no legislators had consulted with him regarding the upcoming legislation affecting rates.

Senator Avard asked whether he had reached out to any of the legislators.

Mr. Kreis said He had not.

Senator Avard noted a coal plant that had undergone expensive upgrades but was ultimately shut down, and asked whether those costs were considered part of the stranded costs.

Mr. Kreis said it was a mistake.

Senator Avard asked if the State needs more generation.

Mr. Kreis agreed with the point but noted that stranded costs are not addressed if utilities are simply told they cannot earn a rate of return on capital expenditures. He added that utilities are not inherently better at managing these investments than anyone else, but prohibiting returns comes at a cost to ratepayers.

Senator Avard said that this bill is generating good conversation and that it is critical to have these discussions. He expressed concern that changing the language could prevent utilities from building new facilities, but he emphasized that doing nothing would be worse. He believes the bill moves the process forward by helping to decrease costs and opening the door to new generation.

Mr. Kreis explained that most of the new generation in New England consists of solar panels, wind turbines, and some hydro, driven by the merchant industry presenting cost-effective options to regulators. He noted that if stakeholders are dissatisfied with the current mix, they need to identify the technologies they prefer and focus on developing those. He emphasized that building new plants would also require securing fuel, as highlighted in Monaghan's testimony. Additionally, he stressed the importance of selecting technologies that can meet energy needs efficiently and respond to peak demand, since some facilities are primarily useful only during periods of high demand to prevent prices from escalating.

Senator Avard noted that maintaining grid reliability comes at a cost, and that advanced transmission infrastructure to handle higher capacity also requires investment. He explained that without these upgrades, more generation would be needed. He suggested that introducing micro-nuclear plants could help lower demand, and that one of the utilities could potentially act as a new player in this space. He asked how transmission loads and generation requirements could be reduced to manage costs and improve efficiency.

Mr. Kreis said that the generation has to be close to load and is an argument for distributed generation and microgrids which are less reliant on the bulk of power transmission system

Senator Rosenwald asked about unused generation capacity and clarified whether encouraging power use at different times of day could help distribute energy more evenly across the system.

Mr. Kreis responded that encouraging people to use electricity at cheaper times through price signals would allow energy use to be more evenly distributed. This would reduce the need to build additional generation assets, and he emphasized that it is especially important to manage load during the winter months.

Joshua Elliot, DOE

- He noted that today's discussion was a productive conversation that should continue, and encouraged the study committee or commission to engage constructively in seeking solutions. He emphasized that no single bill or measure can fully change the system or solve all the challenges, and referred to his prior testimony for additional context. He highlighted NHSAVES as a useful alternative for lowering customer rates.

Senator Watters asked about the language referring to "no cap on facilities built" and whether setting limits would be helpful for the agency or for each utility.

Mr. Elliot responded that a cap on facilities would be beneficial, though it should depend on each facility's output or its portion relative to load.

Michael Licata, Eversource

- He clarified that the actions were not made at the request of utilities, though he appreciated the sentiment of the prime sponsor. He noted that this reflects the status quo: the wholesale market price ranges from $0.36 to $0.60 per kWh, while the total supply rate is $0.23 per kWh, which is well below the market price. He emphasized that the chair is very focused on supply.
- He explained that oil remains the predominant fuel in New Hampshire, driving costs, and that older oil plants create operational and reliability challenges. While acknowledging concerns about transmission and distribution, which have increased and experienced inflation, he noted that the commission-approved increases in energy supply rates were even higher.

- He rejected the idea that cost increases are solely due to transmission and distribution, citing greater volatility and supply constraints, particularly in winter months. He added that while there are no current plans to enter the generation business, doing so could be a helpful tool in the future, giving utilities options to help lower rates, subject to commission approval.

Senator Avard asked about the guaranteed rate of return, and it was noted that the actual rate is ultimately dependent on the commission's decision.

Mr. Licata explained that the rate of return is at the pleasure of the commission. It is essentially based on the distribution system and a portion of capital expenditure, reflecting the utilities' investments.

Senator Avard asked whether utility rates would increase if the Eversource healthcare costs go up.

Mr. Licata said yes, It is a prudently incurred business expense.

Senator Watters asked about the long-term need for generating capacity, noting that it is adjusted based on multiple factors. He questioned whether any proposals that would appear to increase generation make sense, pointing out that firing up oil plants is not a practical solution and that there are multiple ways to approach the issue.

Mr. Licata responded that there is no "silver bullet." One key avenue to reduce energy costs and peak usage is energy efficiency, such as the NHSAVES Program, which decreases usage during peak periods. He emphasized that this is an example of tools beyond simply building more supply. He also noted that neighboring states have focused on similar approaches, and that options like increasing transmission from Canada, offshore wind, or additional pipelines exist—but siting remains a profound barrier, and federal policy has a significant effect on these efforts.

Nick Krakoff, Conservation Law foundation

He stated that utility-owned generation represents a significant departure from the restructuring law and believes it is the wrong way forward, as it creates unnecessary risk for ratepayers. He noted that the facilities under consideration could have generating capacities of up to 400 MW.

He suggested that a safer approach for ratepayers is for utilities to enter into long-term procurement contracts rather than own generation directly, reducing the associated risk.

Senator Watters referenced his past work and Chairman Avard's concerns, asking whether increasing limits could provide flexibility and results.

Mr. Krakoff responded that it could but emphasized caveats.

Senator Avard noted that such an approach would not guarantee the rate.

Mr. Krakoff replied that facilities could be built roughly the size of the Merrimack station. When asked whether more facilities are needed, Krakoff agreed that

additional generation could help, but clarified it is not the only solution, it depends on the type of generation.

Jonathan Hunt

- He noted that energy costs have been rising and highlighted the issue of market volatility. Emphasizing that people respond to incentives, he spoke in support of small-scale generation, including nuclear, and said the people of the state should be the primary beneficiaries of any related legislation.
- He pointed out that large-scale projects involve ten-figure costs that someone must bear, and argued these costs should not fall on ratepayers.
- The state should coordinate with the federal Department of Energy and encourage nuclear generation facilities, which he views as the most effective means to reduce volatility. He emphasized that a pro-nuclear administration creates an opportunity to build these facilities now.

Senator Avard asked if peak generation add to costs?
Mr. Hunt said that it did, depending on the timing of usage, and it contributed to volatility in the system.
Senator Watters said that he understood from Mr. Hunt that New Hampshire did not produce enough energy, but he believed the state was actually a net exporter. He asked Mr. Hunt to look into this for clarification. He also noted that there was an ongoing legislative discussion about building more reactors in New Hampshire and offered his advice, encouraging Mr. Hunt to explore the issues further.
Mr. Hunt thanked the Senator for the question and said he would look into the matter further.
Senator Rosenwald said she heard him say that he could envision a 400 MW nuclear facility being built in New Hampshire. She asked him if he could think of any communities that would want such a facility located in their area?
Mr. Hunt said that it was a valid concern. When Seabrook was first introduced, there had been pushbacks but these small nuclear projects were generally low-impact and undisruptive to the area. He emphasized that community support was essential; residents should not be forced to host facilities but should be encouraged.
Senator Rosenwald clarified that as she understood small modular reactors are much smaller than 400 MW and said they could be placed at existing generation sites. She wanted clarification if a new 400 MW facility could also be placed at an existing site or if the 400 MW facility would be too large.
Mr. Hunt said he was unfamiliar with land specifics.
Senator Avard and Senator Watters clarified that Seabrook and Merrimack could handle a 400 MW facility but others could not.
Mr. Hunt encouraged action now especially given federal support for this generation type.

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Date Hearing Report completed: February 3, 2026