CHAPTER 204
SB 54-FN - FINAL VERSION

03/30/2023 1142s
8Jun2023... 1586h
8Jun2023... 1652h

2023 SESSION

23-0881
10/08

SENATE BILL ***54-FN***

AN ACT relative to purchased power agreements for electric distribution utilities.

SPONSORS: Sen. Avard, Dist 12; Sen. Watters, Dist 4

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill allows electric distribution utilities to issue requests for proposals for multi-year agreements for energy, in conjunction with or independent of any attendant environmental attributes from electric energy sources.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to purchased power agreements for electric distribution utilities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

204:1 Legislative Findings and Purpose. The general court finds that:

I. The cost of electricity supply in New Hampshire has significantly increased over the past year, which has created an economic burden on the state's citizens and businesses.

II. The cost of electricity in New England is driven by a number of factors, including the retirements of baseload generation resources, lack of adequate natural gas capacity in the winter, and increases in the cost of natural gas due to international factors.

III. The development of reliable sources of low-cost electricity supply is critical to stabilizing and reducing the cost of electricity in New Hampshire.

IV. Market volatility is harming New Hampshire's residents and businesses.

V. To ensure that New Hampshire ratepayers can benefit from cost effective energy sources in a time of unprecedented price volatility, the general court finds that it is appropriate to allow the electric distribution utilities to issue requests for proposals to provide more diverse and long-term options for providing energy service to customers.

204:2 New Section; Purchase Power Agreements. Amend RSA 374-F by inserting after section 10 the following new section:

374-F:11 Purchased Power Agreements.

I. Investor-owned electric distribution utilities may elect to develop and, no later than June 30, 2025, issue a request for proposals for multi-year agreements for energy, in conjunction with or independent of any attendant environmental attributes from electric energy sources.

(a) The electric distribution utilities may issue requests for proposals alone or in conjunction with another New Hampshire utility or utilities, or with out of state utilities subject to consultation with the department of energy and the office of the consumer advocate with resulting contracts approved by the public utilities commission.

(b) Any costs associated with transmission system upgrades required for interconnecting new or incremental electric energy sources shall be included in responses to the request for proposals and power purchase agreements.

(c) Electric distribution utilities shall consult with the department of energy and the office of the consumer advocate on all issues related to such requests for proposals, prior to issuance, including the criteria and scoring to be used in the review of responses to the request for proposals. The department and the office of the consumer advocate shall provide any such consultation within 60 days

from the date each draft request for proposals is provided for its review. Within this period the utilities shall solicit public comment.

(d) The department of energy may hire consultants to aid in the development of requests for proposals and assess the costs of such consultants to the relevant distribution electric utility or utilities as appropriate and equitable on a case-by-case basis. The department shall not enter into any contract under this section in an amount greater than $10,000, including any contract extension, without the approval of the governor and council.

(e) Electric distribution utilities shall engage an independent third party to create appropriate request for proposals and to perform cost benefit analysis of any agreements received in response to the request for proposals. Such analysis shall be provided to the commission as part of the utilities' petition for approval of any purchase power agreements resulting from the request for proposals process.

(f) Each investor-owned electric distribution utility may propose more than one agreement, with varying lengths and terms, alone or in conjunction with another utility or utilities, resulting from these requests for proposals, provided that:

(1) Agreements shall not exceed 20 years in length.

(2) Collectively among all investor-owned electric distribution utilities, agreements will be eligible for approval for up to a total not to exceed 2 million megawatt hours, annually, apportioned to each investor-owned electric distribution utility based upon kWh sales to ultimate customers as reported on the utilities' FERC Form 1. No electric distribution utility may contract in excess of its apportionment.

(g) All megawatt hours procured through agreements made pursuant to this section shall come from new or incremental electric energy sources.

(h) For the purposes of this section:

(1) "New electric energy sources" are those that are able to provide additional energy into the ISO-NE regional market that first began commercial operation on or after September 1, 2023.

(2) "Incremental electric energy sources" are those that as a result of new construction on or after September 1, 2023, are capable of providing additional energy into the ISO-NE regional market.

(i) Electric distribution utilities shall recover any prudently incurred costs related to complying with this section through distribution rates.

II. Any investor-owned electric distribution utility electing to enter into an agreement pursuant to this section shall petition the public utilities commission for authorization to enter the agreement no later than June 30, 2026.

(a) Upon the petition of one or more electric distribution utilities, and after notice and hearing, the public utilities commission may authorize such utility or utilities to enter into multi-year agreements with new or incremental electric energy sources up to a total of 2 million megawatt hours statewide, on an annual basis, if it finds such agreements to be just and reasonable and in the public interest.

(b) The public utilities commission shall review and render a decision on any proposed agreement no later than 9 months after submission of the agreement with the commission.

III. In reviewing agreements under this section, the public utilities commission shall consider whether each agreement is, on balance, substantially consistent with the following factors:

(a) Cost-effective to electric ratepayers in New Hampshire over the term of the agreement.

(b) Creates or supports electric energy sources that are expected to be available during long duration weather events.

(c) Fosters price stability and helps reduces exposure to market volatility.

(d) Supports the diversification of New Hampshire's electric energy sources.

(e) Contains ratepayer protections, which may include such mechanisms as performance incentives, penalties for non-performance, or others as proposed by the utility and determined by the commission to be in the best interest of ratepayers.

(f) Any other factors necessary to determine whether the agreement is just and reasonable and in the public interest.

IV. Upon receiving public utilities commission approval of an agreement to purchase electric energy, in conjunction with or independent of any attendant environmental attributes, an investor-owned electric distribution utility shall sell such purchased energy into the wholesale market in the manner to minimize costs and maximize benefits to ratepayers. When the electric distribution utility sells into the wholesale market, it shall:

(a) Calculate the net cost of payments made under the agreements against the proceeds obtained from the sale of the energy and any environmental attributes.

(b) Credit or charge all their distribution ratepayers the difference between the agreement payments and proceeds through a uniform, fully-reconciling annual factor in rates.

V. To the extent any proposed agreement to purchase electric energy includes environmental attributes, such as renewable energy credits, the public utilities commission shall approve how such environmental attributes are used or disposed of in a manner expected to minimize costs and maximize benefits to ratepayers.

VI. Any rural electric cooperative for which a certificate of deregulation is on file with the department of energy may participate in competitive solicitations for energy or environmental attributes on its own or in conjunction with an investor-owned utility or utilities, but shall not be required to develop or issue requests for proposals or seek authorization for multi-year purchased power agreements under this section. Investor-owned electric distribution utilities, shall, however, be required to consult with the department of energy on any jointly-issued request for proposals and to obtain approval of any contract entered into jointly with a rural electric cooperative.

204:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 04, 2023
Effective Date: October 03, 2023