SENATE, No. 1366

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 3, 2022

Sponsored by:
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)
Senator STEVEN V. OROHO
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:
Senators Testa, Stanfield, Johnson, Cryan and O'Scanlon

SYNOPSIS

Directs BPU to establish program concerning renewable natural gas; provides gas public utilities with customer rate recovery mechanism for costs associated with program.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/30/2023)

AN ACT concerning renewable natural gas and supplementing Title 48 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. The Legislature finds and declares that:

(1) renewable natural gas can provide benefits to gas public utility customers and to the public;

(2) the development of renewable natural gas resources should be encouraged to support a smooth transition to a low carbon energy economy in New Jersey;

(3) the societal benefits that may be achieved through the development and use of renewable natural gas warrant the State's support for investment in renewable natural gas; and

(4) gas public utilities can reduce greenhouse gas emissions from the direct use of natural gas by procuring renewable natural gas and investing in renewable natural gas infrastructure.

b. The Legislature therefore determines that:

(1) regulatory guidelines should be established for the procurement of renewable natural gas and investments in renewable natural gas infrastructure in order to enable that procurement and investment while also protecting New Jersey ratepayers; and

(2) renewable natural gas should be included in the broader set of low carbon resources that may leverage the natural gas system to reduce greenhouse gas emissions.

2. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Biogas" means a mixture of carbon dioxide and hydrocarbons, primarily methane gas, released from the biological decomposition of organic materials.

"Board" means the Board of Public Utilities or any successor agency.

"Class I renewable energy" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Class II renewable energy" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State.

"Qualified investment" means any capital investment in renewable natural gas infrastructure incurred by a gas public utility for the purpose of providing natural gas service under a renewable natural gas program pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Renewable natural gas" means any of the following products processed to meet pipeline quality standards or transportation fuel grade requirements: (1) biogas that is upgraded to meet natural gas pipeline quality standards such that it may blend with, or substitute for, geologic natural gas; (2) hydrogen gas derived from Class I renewable energy or Class II renewable energy; or (3) methane gas derived from any combination of biogas, hydrogen gas or carbon oxides derived from renewable energy sources, or waste carbon dioxide.

"Renewable natural gas infrastructure" means the equipment and facilities for the production, processing, pipeline interconnection, and distribution of renewable natural gas to natural gas customers in the State.

3. a. Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding upon the filing of a petition by a gas public utility with the board for approval of a program for the procurement of renewable natural gas and investment in renewable natural gas infrastructure and an associated cost recovery mechanism, and the board shall adopt, after notice and opportunity for public comment and public hearing, a program for the procurement of renewable natural gas and investment in renewable natural gas infrastructure by a gas public utility.

b. A gas public utility that participates in the renewable natural gas program adopted by the board, pursuant to subsection a. of this section, may make qualified investments and procure renewable natural gas from third parties, including affiliates of the gas public utility, to pursue the following portfolio targets for the percentage of gas purchased or transported by the gas public utility for distribution to retail natural gas customers in the State:

(1) in each of the energy years 2022 through 2024, up to five percent may be renewable natural gas;

(2) in each of the energy years 2025 through 2029, up to10 percent may be renewable natural gas;

(3) in each of the energy years 2030 through 2034, up to 15 percent may be renewable natural gas;

(4) in each of the energy years 2035 through 2039, up to 20 percent may be renewable natural gas;

(5) in each of the energy years 2040 through 2044, up to 25 percent may be renewable natural gas; and

(6) in each of the energy years 2045 through 2050, up to 30 percent may be renewable natural gas.

c. The board shall adopt a ratemaking mechanism that ensures the recovery of and on all prudently incurred costs that contribute to the gas public utility's meeting the portfolio targets established pursuant to subsection b. of this section. Under a ratemaking mechanism adopted by the board pursuant to this subsection:

(1) any qualified investment and operating cost approved by the board that is associated with a qualified investment that contributes to a gas public utility's meeting the portfolio targets established

pursuant to subsection b. of this section may be recovered from ratepayers by means of a periodic recovery mechanism established by the board; and

(2) any cost of procurement of renewable natural gas from a third party, including from an affiliate of the gas public utility, approved by the board that contributes to the gas public utility meeting the portfolio targets established pursuant to subsection b. of this section may be recovered from ratepayers by means of a periodic recovery mechanism established by the board.

d. When a gas public utility makes a qualified investment pursuant to subsection b. of this section, the costs associated with the qualified investment shall include the cost of capital established by the board in the gas public utility's most recent rate case as well as other incremental costs associated with those qualified investments.

e. When a gas public utility procures renewable natural gas from a third party, the gas public utility shall purchase the renewable natural gas supply at prices and on terms consistent with market conditions in the market for renewable natural gas. A charge assessed to customers for the supply of renewable natural gas shall be regulated by the board and shall be based on the cost to the gas public utility of providing that supply, including the cost of renewable natural gas commodity and capacity, purchased at prices consistent with market conditions in the market for renewable natural gas, and related ancillary and administrative costs, as determined by the board.

f. If a gas public utility's total incremental annual cost to meet the portfolio targets of the renewable natural gas program established pursuant to subsection b. of this section exceeds five percent of the gas public utility's total revenue requirement for an individual year, the gas public utility shall no longer be authorized to make additional qualified investments under the renewable natural gas program for that year without the approval of the board.

g. The total incremental annual cost to meet the portfolio targets of the renewable natural gas program shall account for:

(1) any value received by a gas public utility upon any resale of renewable natural gas, including any environmental credits that the renewable natural gas producer chooses to include with the sale of the renewable natural gas to the gas public utility; and

(2) any savings achieved through avoidance of conventional gas purchases or development, such as avoided pipeline costs or carbon emission reduction costs.

h. Notwithstanding the portfolio targets established pursuant to subsection b. of this section, the board may, in its discretion, permit a gas public utility to exceed those portfolio targets. In such a case, the remaining provisions of this section shall continue to apply.

4. No later than 180 days after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52-14B-1 et seq.), necessary to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

5. This act shall take effect immediately.

STATEMENT

This bill directs the Board of Public Utilities (BPU) to establish a program to encourage the procurement of renewable natural gas and investment in renewable natural gas infrastructure by a gas public utility (utility). The bill establishes portfolio targets for the distribution of renewable natural gas to the utility's retail natural gas customers in the State, for energy years 2022 through 2050. The portfolio target begins as a target of up to five percent in each of the energy years 2022 through 2024, and increases up to 30 percent in each of the energy years 2045 through 2050. The bill defines "renewable natural gas" as the following products, processed to meet pipeline quality standards or transportation fuel grade requirements: 1) biogas that meets natural gas pipeline quality standards such that it may blend with, or substitute for, geologic natural gas; 2) hydrogen gas derived from Class I renewable energy or Class II renewable energy; or 3) methane gas derived from any combination of biogas, hydrogen gas, or carbon oxides derived from renewable energy sources, or waste carbon dioxide.

The bill requires the BPU to adopt a ratemaking mechanism that ensures the recovery of and on all prudently incurred costs that contribute to a utility's meeting the program's renewable natural gas portfolio targets established in the bill. Under a ratemaking mechanism adopted by the BPU by means of a periodic rate recovery mechanism: 1) any BPU-approved qualified investment and operating cost associated with a qualified investment that contributes to a utility's meeting the program's requirements may be recovered from ratepayers; and 2) any BPU-approved cost of procurement of renewable natural gas from a third party, including from an affiliate of the utility, that contributes to the utility meeting the program's requirements may be recovered from ratepayers. When a utility makes a qualified investment, the costs associated with the qualified investment are to include the cost of capital established in the utility's most recent rate case as well as other incremental costs associated with those qualified investments.

The bill requires that when a utility procures renewable natural gas from a third party, the utility is to purchase the renewable natural gas supply at prices and on terms consistent with market conditions in the market for renewable natural gas. A charge assessed to customers for the supply of renewable natural gas is to be regulated by the BPU and be based on the cost to the utility of providing that supply, including the cost of renewable natural gas commodity and capacity, purchased at prices consistent with market conditions in the market for renewable natural gas, and related ancillary and administrative costs. If a utility's total incremental annual cost to meet the requirements of the renewable natural gas program exceeds five percent of the utility's total revenue requirement for an individual year, the utility is no longer authorized to make additional qualified investments under the renewable natural gas program for that year without the approval of the BPU.

The bill provides that the total incremental annual cost to meet the portfolio targets of the program are to account for: 1) any value received by the utility upon any resale of renewable natural gas, including any environmental credits that the renewable natural gas producer chooses to include with the sale of the renewable natural gas to the utility; and 2) any savings achieved through avoidance of conventional gas purchases or development, such as avoided pipeline costs or carbon costs. The bill allows the BPU to permit a utility to exceed the program's portfolio targets and, in that instance, the remaining provisions of the bill are to continue to apply.