SENATE, No. 2461



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED MAY 9, 2022

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

The "New Jersey Town Center Microgrid Pilot Program Act."

CURRENT VERSION OF TEXT

As introduced.



An Act concerning the provision of electric supply to critical facilities through microgrids.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the "New Jersey Town Center Microgrid Pilot Program Act."

2. As used in this act:

“Board” means the New Jersey Board of Public Utilities or any successor agency.

“Critical facilities” means buildings and facilities that are essential for the delivery of vital services or protection of a community.

“Department” means the New Jersey Department of Environmental Protection.

“Developer” means an entity that enters into an agreement with a pilot agency for the design, financing, construction, and operation, or any combination thereof, of a supply of electrical power pursuant to this act.

“Distributed energy resource” or “DER” means one or more electric power generation, management, or storage technologies, excluding diesel fuel technologies, located in a pilot agency, that is capable of providing the standard energy needs of a building or structure, or group of buildings or structures, if the normal source of electricity is disrupted due to a power outage.

“Division” means the Division of Local Government Services in the Department of Community Affairs.

“Electrical distribution company” means a public utility, as that term is defined in R.S.48:2-13, holding a franchise from the Board of Public Utilities to provide electric distribution service, and whose electrical distribution service territory includes the pilot agency.

“Microgrid” means a group of interconnected electrical supply loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid. A microgrid can connect and disconnect from the grid to enable it to operate in both grid-connected or island-mode.

“Microgrid tariff” means a tariff approved by the board for the purpose of facilitating the development and operation of a TCDER Microgrid, and which tariff may provide waivers of law and rules, and impose conditions which the board determines to be necessary and appropriate to facilitate the development and operation of a TCDER Microgrid. A microgrid tariff shall not be construed as establishing a precedent with regard to any other tariff subject to board approval.

“Offtaker” means a party purchasing energy and related products that are produced and delivered from a TCDER Microgrid.

“Pilot agency” means a municipal, county, or State government entity that participated in the Board of Public Utilities’ TCDER Microgrid Feasibility Study Program and was informed by the board to have met the feasibility study program requirements.

“Power purchase agreement” means a contract, between a pilot agency and a developer, for the supply of electrical power from a distributed energy resource to critical facilities through a TCDER Microgrid, which contract may reference a project agreement for the development of a distributed energy resource.

“Project” means a TCDER Microgrid being developed by a pilot agency pursuant to this act.

“Project agreement” means a contract, between a pilot agency and a developer, setting forth terms and conditions related to: the scope and location of the project, ownership rights, rights-of-way access, land leases, insurance and bonding, fees and taxes, operation, financing, and related issues not included in the terms and conditions of the power purchase agreement. A project agreement may address the terms of a proposed microgrid tariff and may be conditioned on approval of the tariff. A project agreement shall not relax or modify any applicable requirement for approval under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

“Town Center Distributed Energy Resources Microgrid” or “TCDER Microgrid” means critical facilities within the municipal boundary of a pilot agency that are connected as a microgrid to one or more distributed energy resources.

3. a. Pursuant to the provisions of this act, and notwithstanding the provisions of any other law, rule, or regulation to the contrary, for the purpose of developing a Town Center Distributed Energy Resources Microgrid to supply electrical power for critical facilities, a pilot agency may enter into a project agreement and a power purchase agreement with a developer.

b. A pilot agency and a developer may enter into a power purchase agreement under this act for a term not to exceed 20 years, subject to the review and approval of the Division of Local Government Services and the Board of Public Utilities.

(1) The Division of Local Government Services shall have the duty and power to review and approve financial matters and risks presented by a power purchase agreement.

(2) The Board of Public Utilities shall have the duty and power to:

(a) review and approve electrical supply and distribution matters of a power purchase agreement;

(b) provide guidance concerning offtaker rates and fees that are necessary for a proposed power purchase agreement; and

(c) adopt a microgrid tariff affecting an electrical distribution company in order to facilitate the development of a project.

c. The board and the division shall each establish application forms and processes for approvals under this act, however, the board and the division may establish a joint application form and process for approvals.

d. (1) The division shall assist a pilot agency in developing a private agency’s developer procurement process or request for proposals to ensure that the process or proposals reflects the necessary knowledge, experience, financial capacity, and expertise to develop, construct, and operate an energy supply facility in New Jersey.

(2) The board shall assist a pilot agency in evaluating provisions of a proposed power purchase agreement and tariff, including but not limited to, assistance in matters of energy pricing, maintenance, termination of the agreement, removal of infrastructure, assignment of contract, cybersecurity, liability insurance, electrical system connection and interfaces, and system upgrades.

e. A pilot agency may submit to the division a request for a waiver of specific provisions of law that are within the division’s jurisdiction. The division may grant a request for a waiver and may adopt alternative provisions upon a finding of public need for the project and general consistency with the applicable provisions of law if the division determines that enforcing the requirements sought to be waived are not necessary to protect the overall public interest and may compromise the viability of the proposed project.

f. The board and the division may each take actions not specifically authorized by this act that the board or division deems reasonable, prudent, and necessary to accomplish the purposes of this act if those actions are consistent with the purposes of this act and address issues not specifically covered by this act. For the purpose of this subsection, the purposes of this act are to encourage energy efficiency, reliability, resiliency, sound technical development and operation, while ensuring the fiscal integrity of each pilot agency and developer with regard to a power purchase agreement and project agreement.

4. Notwithstanding the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), and of rules and regulations promulgated thereunder to the contrary, a pilot agency may solicit proposals for the development of a TCDER Microgrid project, and enter into a project agreement and a power purchase agreement in the following manner:

a. A pilot agency shall publish notice of the availability of request for proposal documentation at least 30 days prior to the date established for the submission of proposals in at least one newspaper of general circulation in the jurisdiction or service area of the pilot agency to be served under the terms of the proposed agreements and by posting notice on the website of the pilot agency. A pilot agency shall promptly provide request for proposal documentation to any known prospective developers upon publication and to any others upon request. The request for proposals shall also be posted on the pilot agency’s internet website on a page normally used for advertisement of bids.

b. A prospective developer may submit a proposal, which shall include all the information required by the request for proposals. A pilot agency may disqualify a prospective developer’s proposal from consideration if the prospective developer does not comply with a requirement set forth in the request for proposals. A pilot agency may hold an informational meeting to discuss a proposed project and answer questions so long as the meeting is open to all prospective developers. A pilot agency may host an Internet website to answer questions submitted by prospective developers.

c. A pilot agency shall conduct a preliminary review of the proposals received from prospective developers to determine which proposals meet the minimum qualifications and standards. The review of proposals shall be conducted in a manner that avoids disclosure of the contents of a proposal to prospective developers that submitted competing proposals. A pilot agency may conduct discussions with a prospective developer that submitted a qualified proposal for the purpose of clarifying information submitted in the proposal. After completing a preliminary review of the proposals submitted by prospective developers, a pilot agency may revise its request for proposal documentation if the pilot agency simultaneously provides notice of the revision to each prospective developer that submitted a proposal and provides a uniform and reasonable period of time within which a prospective developer that submitted a proposal may submit a revised proposal to the pilot agency.

d. (1) A pilot agency shall appoint the agency’s purchasing agent, legal counsel, engineer, administrator, or other qualified person, to evaluate submitted proposals in accordance with the methodology set forth in the request for proposals. The governing body may create a committee to assist the evaluating appointee in the effort. After completing the evaluation of submitted proposals, the person appointed to evaluate proposals shall prepare a report explaining the evaluations and making recommendations, which may include recommending the award of a contract or contracts to a prospective developer. The report shall list each prospective developer and shall summarize each submitted proposal. The report shall rank prospective developers in order of preference, and may recommend the selection of a developer. If the report recommends the selection of a developer, the report shall clearly state the reasons for recommending selection of the prospective developer over other prospective developers.

(2) The pilot agency shall make the report available to the public, and to each prospective developer that submitted a proposal, at least 48 hours prior to announcing selection of a prospective developer and entering into negotiations with the selected prospective developer.

(3) After receipt and review of the report, and at least 48 hours after making the report available to the public and each prospective developer, the governing body of a pilot agency may, by resolution, select a prospective developer and authorize the pilot agency to enter into negotiations for a power purchase agreement with the selected prospective developer. If the governing body selects a prospective developer other than the highest ranked developer, the governing body shall include an explanation for doing so in the resolution.

(4) The governing body of a pilot agency may reject all proposals for any of the reasons set forth in section 21 of P.L.1999, c.440 (C.40A:11-13.2).

e. (1) A pilot agency shall negotiate a preliminary project agreement and a preliminary power purchase agreement with the selected prospective developer.

(2) If a pilot agency is unable to negotiate satisfactory preliminary agreements with the selected prospective developer, the pilot agency may, by resolution, abandon negotiations with that prospective developer and select the next-highest-ranked prospective developer. The pilot agency shall notify each prospective developer that submitted a proposal of the selection of the next-highest-ranked prospective developer at least 48 hours prior to commencing negotiations with the next-highest-ranked prospective developer.

(3) A pilot agency, the selected prospective developer, and the applicable electrical distribution company shall consult on issues relevant to the development and operation of a proposed project, and shall negotiate the provisions of a proposed microgrid tariff for the purpose of enabling a proposed project to operate in a manner consistent with sound distribution grid engineering, safety requirements, economics, and cross-subsidy standards. An electrical distribution company shall not unreasonably withhold its agreement to a proposed microgrid tariff and shall negotiate in good faith with the pilot agency and the selected prospective developer in order to facilitate the proposed project. The terms and conditions of the proposed microgrid tariff shall be contingent upon approval by the board.

(a) If the pilot agency, the selected prospective developer, and the applicable electrical distribution company agree to the provisions of a proposed microgrid tariff, the electrical distribution company shall submit the proposed microgrid tariff to the board for the board’s approval.

(b) If the pilot agency, the selected prospective developer, and the applicable electrical distribution company cannot agree on all necessary provisions of a proposed microgrid tariff, the electrical distribution company shall provide the pilot agency and the selected prospective developer a written statement setting forth each issue necessary to be addressed in the tariff, indicating whether the parties have agreed on each issue, and explaining the electrical distribution company’s recommendations on each issue of disagreement. In this instance, the application for review and approval of the proposed agreement, submitted pursuant to subsection h. of this section, shall include the pilot agency’s recommendations and the selected prospective developer’s recommendations on each issue of disagreement together with the electrical distribution company’s written statement on the proposed microgrid tariff. As part of its action on the application, the board shall consider the submitted recommendations on each issue of disagreement and make a determination to resolve each issue.

(4) After satisfactory completion of negotiations with a prospective developer, a pilot agency shall set forth in a written document a summary of the terms and conditions of the proposed agreements and shall, upon request, make this document available to the public along with the proposed agreements.

f. Prior to entering into a project agreement and a power purchase agreement with a prospective developer, a pilot agency shall conduct a public hearing on the proposed agreements. The pilot agency shall provide at least 14 days' prior notice of the public hearing by publication in at least one newspaper of general circulation in the jurisdiction or service area of the pilot agency to be served under the terms of the proposed agreement and by posting notice of the public hearing on the website of the pilot agency. The publication shall include notice of the date, time and place of the public hearing, and provide notice of the place and times, or Internet website at which, a member of the public may review the proposed agreements.

g. A pilot agency shall produce a verbatim record of the public hearing. The pilot agency shall prepare a written hearing report, which shall include a copy of the proposed agreements, a copy of the statement setting forth the pilot agency’s reasons for selecting the proposal, the verbatim record of the public hearing, written statements submitted by interested parties, and a statement prepared by the pilot agency summarizing the major issues raised at the public hearing and the pilot agency 's specific responses to those issues. The pilot agency shall make copies of the hearing report available to interested parties upon their request.

h. (1) Upon at least 10 days' prior written notice provided after the close of a public hearing on a proposed project agreement and a proposed power purchase agreement, a pilot agency shall submit:

(a) an application for review of the proposed project agreement and for review and approval of the proposed power purchase agreement to the division;

(b) an application for review of the proposed project agreement and for review and approval of the proposed power purchase agreement and proposed microgrid tariff to the board; and

(c) a copy of each application to the Department of Environmental Protection for the department’s review and comment.

(2) A pilot agency shall submit initial applications within three years of the effective date of this act.

i. (1) The division, the board, and the department shall coordinate their reviews, insofar as practicable, and may engage in discussions with each other and the pilot agency to address any concerns. The

department shall provide any written comments to the division, the board, and the pilot agency, for their consideration, no later than 45 days after the department’s receipt of an application, or within 10 days of being notified by the division or board of their intent to act on the application.

(2) Within 60 days of receipt of an application, the board and the division shall each approve, disapprove, or conditionally approve, the application. The board and the division shall disapprove an application unless it was initially submitted for review within three years of the effective date of this act. If the board or division does not approve, disapprove, or conditionally approve an application within 60 days of receipt, the application shall be deemed approved, unless the public agency agrees to an extension of the period or the application was not submitted within three years of the effective date of this act.

(3) If the board or division conditionally approves an application, the board or division shall provide the pilot agency suggested changes or language for a required revision to the proposed agreement or tariff, in writing, inclusion of which would enable the board or division to approve the proposed agreement or tariff.

(a) If the board or division determines that the required revision is substantial, the pilot agency shall hold a public hearing on the revision. A substantial revision shall be a change that materially changes the terms and conditions of the proposed agreement or tariff. A pilot agency shall submit a proposed revision to the board, the division, and the department at least 15 days prior to the date of the public hearing.

(b) If the board or division determines that the required revision is not substantial, the pilot agency shall submit the proposed revision to the board and the division for approval and to the department for review. The board and the division, at their next public meetings held at least 15 days after submission of a proposed revision, shall either: approve the proposed revision, if it is found to be consistent with the conditions set forth in the conditional approval; or disapprove the proposed revision with a written explanation as to why the revision is not consistent with the conditions set forth in the conditional approval.

(4) In its review of an application, the board shall apply the following criteria in determining whether to approve a proposed power purchase agreement and microgrid tariff:

(a) The prospective developer has the financial capacity and technical and administrative experience to ensure continuity of service over the term of the agreement and tariff and that the standards and requirements contained in the application documents concerning the financial, technical and administrative capacity of the prospective developer are necessary and sufficient to protect the public interest.

(b) The terms of the proposed power purchase agreement and microgrid tariff are not unreasonable. In determining whether the terms of the proposed agreement and tariff are not unreasonable, the board shall review the fees and charges to be charged or assessed under the proposed agreement and tariff to determine that they are reasonable to the pilot agency, taking into consideration all the obligations to be undertaken by the prospective developer and all the benefits to be obtained by the pilot agency. In making this determination, the board shall not use the traditional rate-based rate of return methodology, pursuant to the provisions of Title 48 of the Revised Statutes.

(c) The franchise customers of a public utility are protected from the risks of the proposed power purchase agreement and are not subsidizing the agreement. If a prospective developer is not a public utility, the board shall ensure that the terms of the proposed power purchase agreement address the risks the agreement imposes on all offtakers, and that users of electricity who are not part of the TCDER microgrid are not subsidizing the agreement through increased charges, rates, or fees.

(d) If a prospective developer is not an electrical distribution company, the prospective developer shall not be subject to laws, rules, and regulations applicable to regulated public utilities, except for the terms and conditions set forth in the applicable microgrid tariff.

(e) A microgrid tariff may include, but shall not be limited to, the following:

(i) provisions enabling a developer to cross electric public utility rights of way and construct distribution wires and facilities.

(ii) provisions enabling an electric public utility to recover costs of switches and related costs of integrating microgrid generated energy into their system.

(iii) provisions addressing the assessment of standby, access, and social benefit, market transition fees, rates, or charges.

(iv) provisions allowing an electric public utility to own and maintain distribution wiring, switches, and other facilities that connect to or touch their system.

(v) provisions ensuring that the cost of the added distribution infrastructure is passed on to the customers of the TCDER Microgrid over the life of that infrastructure.

(vi) provisions that supersede other statutes and regulations, upon the board’s determination that it is necessary, appropriate, and in the public interest to do so, in order to facilitate the success of the proposed project and power purchase agreement.

(5) In its review of an application, the division shall apply the following criteria in determining whether to approve a proposed power purchase agreement:

(a) The terms of the proposed power purchase agreement do not materially impair the ability of the pilot agency to punctually pay principal and interest due on its outstanding indebtedness and to supply other essential public improvements and services.

(b) The power purchase agreement contains satisfactory provisions addressing:

(i) The allocation of the risks of operating and maintaining the microgrid.

(ii) The allocation of the financial risks of the power purchase agreement.

(iii) The defaulting and termination of the agreement.

(iv) The requirements for the provision of a performance bond by the developer, if so required by the pilot agency.

The division shall also review and specifically approve any agreement provision pursuant to which a pilot agency may execute a financing instrument for the purposes set forth in the agreement. A bond authorization or other obligation that pledges the full faith and credit of a pilot agency shall be subject to the approval of the Local Finance Board.

(6) The board and the division shall assess, and the pilot agency shall pay, a fee equal to the cost incurred by the board or division for an analysis of an application by an independent person who has expertise in the area of electric supply services if during the review of an application the board or division determine that such an analysis is required and a person with the required expertise is not readily available from within any executive department of the State government.

(7) If the pilot agency and the developer require amendments to a power purchase agreement after approval of an application by the board and division, the pilot agency shall submit proposed amendments to the board and division for approval and to the department for review. At the next public meeting of the board and of the division convened at least 20 days after receipt of proposed amendments, the board and the division shall determine whether the proposed amendments are substantial. If the amendments are substantial in nature, as determined by either the board or the division, the pilot agency shall conduct a hearing on the proposed revision. Within 45 days of the receipt of proposed amendments that are not determined to be substantial, or within 60 days of the receipt of an application for approval of proposed amendments that are determined to be substantial, the board and division shall approve or conditionally approve the amendments in accordance with the applicable procedures established for approval of an original agreement.

(8) Any requirement of this section that requires notice in writing to prospective developers may be provided by email in lieu of physical mail.

5. a. Subject to the provisions of a microgrid tariff approved by the board pursuant to this act, and with the approval of the pilot agency, a developer chosen to supply energy under a power purchase agreement may sell and distribute energy to other critical facilities that are located within the municipal boundary of the pilot agency.

b. Pursuant to the “Uniform Shared Services and Consolidation Act,” sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35), a pilot agency may enter into a shared service agreement with a local unit or units for the resale of electrical power purchased under a power purchase agreement.

c. A pilot agency may enter into agreements with State or federal entities and not-for profit health care organizations for the resale of electrical power purchased under a power purchase agreement.

6. The board, in consultation with the division and the department, shall prepare and submit, not later than four years after the effective date of this act, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report describing the implementation of the "New Jersey Town Center Microgrid Pilot Program Act."

7. This act shall take effect immediately.

STATEMENT

This bill would establish the "New Jersey Town Center Microgrid Pilot Program Act," for the purpose of facilitating implementation of a program currently before the New Jersey Board of Public Utilities (BPU). The BPU initiated the Town Center Distributed Energy Resources (TCDER) Microgrid program after Superstorm Sandy in order to help New Jersey become more energy resilient, particularly with respect to critical facilities. A TCDER Microgrid is a cluster of critical facilities within a municipal boundary, which facilities may operate as shelter for the public during and after an emergency event or provide services that are essential to function during and after an emergency situation. A microgrid connects critical facilities with distributed energy resources, which can operate when the main electric grid suffers a power outage.

During 2018, the BPUs “Phase I” TCDER Microgrid Feasibility Study Incentive Program funded thirteen Feasibility Studies. During 2019, BPU informed twelve Feasibility Study applicants that their studies met program requirements and that they were eligible to apply for the “Phase II” TCDER Microgrid incentive program (one Feasibility Study applicant withdrew from the program). The BPU limited eligibility to apply for the Phase II TCDER Microgrid Incentive Program to those applicants who met the Feasibility Study program requirements.

The Phase II TCDER Microgrid Incentive Program provides funding, on a competitive basis, for the design of a TCDER Microgrid, in order to help move projects towards the development and construction phase. Phase II TCDER Microgrid Incentive Program guidelines require applicants to certify that projects are legally permissible, i.e., that they conform to existing law, code, and standing Board Orders. This bill establishes a framework to enable program participants that are unable to move their projects forward due to legal or statutory impediments to do so consistent with this process. Those program participants, defined as “pilot agencies” in the bill, are Atlantic City, Camden County and its utilities authority, Galloway Township, Highland Park Borough, Hoboken City, Hudson County, Middletown Township, Montclair Township, Neptune Township, Paterson City, Trenton City (together with the State Department of Treasury), and Woodbridge Township.

Under the bill, a pilot agency may enter into a project agreement, concerning the development of a TCDER Microgrid, and a power purchase agreement, concerning the procurement of electrical power supply for critical facilities. A pilot agency and a developer may enter into a power purchase agreement, for a term not to exceed 20 years, subject to the review and approval of the Division of Local Government Services (DLGS) and the BPU. The DLGS would have power to review and approve financial matters and risks associated with a proposed power purchase agreement. The BPU would have power to: review and approve electrical supply and distribution matters for a proposed power purchase agreement; provide guidance concerning offtaker rates and fees that are necessary for a proposed power purchase agreement; and adopt specifically authorized microgrid tariffs affecting the electrical distribution company in order to facilitate the development of a TCDER Microgrid project.

The bill sets forth a procurement process, outside of the "Local Public Contracts Law," for a pilot agency to solicit a developer, with whom it would enter into a project agreement and a power purchase agreement. After completing a request for proposals process, the bill authorizes a pilot agency to select a prospective developer, by resolution, and to enter into negotiations for a power purchase agreement with the selected developer.

A pilot agency that intends to enter into a project agreement and a power purchase agreement with a developer must conduct a public hearing on the proposed agreements. Within 30 days after the public hearing, the pilot agency would submit:

* an application for review of the proposed project agreement and for review and approval of the proposed power purchase agreement to the DLGS;
* an application for review of the proposed project agreement and for review and approval of the proposed power purchase agreement and proposed microgrid tariff to the BPU; and
* a copy of each application to the Department of Environmental Protection (DEP) for the department’s review and comment.

A pilot agency must submit initial applications within three years of the effective date of this bill.

The bill directs BPU and DLGS to specify application forms and processes for a pilot agency to seek approvals under the bill. The DLGS would assist pilot agencies in developing procurement processes and requests for proposals. The BPU would assist pilot agencies in evaluating provisions of proposed power purchase agreements and tariffs.

The bill would allow a pilot agency to submit to the DLGS a request for a waiver of specific provisions of law that are within the division’s jurisdiction. The division may grant a request for a waiver and may adopt alternative provisions upon a finding of public need for the project and general consistency with the applicable provisions of law, if the division determines that enforcing the requirements sought to be waived: is not necessary to protect the overall public interest and may compromise viability of the proposed TCDER microgrid project.

The bill would empower the BPU and the DLGS to each take actions not specifically authorized under the bill which the board or division deems reasonable, prudent, and necessary to accomplish the bill’s purposes if those actions are consistent with the bill’s purposes and address issues not specifically covered by the bill. For this purpose, the bill specifies that the purposes of the bill are to encourage energy efficiency, reliability, resiliency, sound technical development and operation, while ensuring fiscal integrity of each pilot agency and its power purchase or related agreements with a TCDER microgrid developer.

The bill directs the DLGS, the BPU, and the DEP to coordinate their reviews, insofar as practicable, and to engage in discussions with each other and the pilot agency to address any concerns. Within 60 days of receipt of an application, the board and the division must each either approve, disapprove, or conditionally approve the application. The board and the division shall disapprove an application unless it was initially submitted for review within three years of the effective date of this act. If the board or division does not approve, disapprove, or conditionally approve an application within 60 days of receipt, the application would be deemed approved, unless the public agency has agreed to an extension of the review period or the application was not submitted within three years of the effective date of this act.

If the board or division conditionally approve an application, the board or division must provide the pilot agency suggested language for a required revision to the proposed agreement or tariff, in writing, inclusion of which would enable the board or division to approve the proposed agreement or tariff. If the board or division determines that the required revision is substantial, the pilot agency must hold a public hearing on the revision. The bill provides that a substantial revision would be a change that materially changes the terms and conditions of the proposed agreement or tariff. If the board or division determines that the required revision is not substantial, the pilot agency must submit the proposed revision to the board and the division for approval and to the department for review. The board and the division would approve the proposed revision, if it is found to be consistent with the conditions set forth in the conditional approval, or disapprove the application with a written explanation as to why the revision is not consistent with the conditions set forth in the conditional approval.

The bill sets forth criteria that the BPU and the DLGS would apply when determining whether to approve a proposed power purchase agreement and tariff.

The bill directs BPU in consultation with the DLGS and the DEP, to prepare a report describing implementation of the bill, and submit the report to the Governor and to the Legislature within four years of the bill’s effective date.