

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 230 entitled “An act relating to improving the siting of energy
4 projects” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 * * * Designation * * *

8 Sec. 1. DESIGNATION OF ACT

9 This act shall be referred to as the Energy Development Improvement Act.

10 * * * Integration of Energy and Land Use Planning * * *

11 Sec. 2. 24 V.S.A. § 4302 is amended to read:

12 § 4302. PURPOSE; GOALS

13 * * *

14 (c) In addition, this chapter shall be used to further the following specific
15 goals:

16 (1) To plan development so as to maintain the historic settlement pattern
17 of compact village and urban centers separated by rural countryside.

18 (A) Intensive residential development should be encouraged
19 primarily in areas related to community centers, and strip development along
20 highways should be discouraged.

1 (A) significant natural and fragile areas;

2 (B) outstanding water resources, including lakes, rivers, aquifers,
3 shorelands, and wetlands;

4 (C) significant scenic roads, waterways, and views;

5 (D) important historic structures, sites, or districts, archaeological
6 sites, and archaeologically sensitive areas.

7 (6) To maintain and improve the quality of air, water, wildlife, and land
8 resources.

9 (A) Vermont's air, water, wildlife, mineral, and land resources
10 should be planned for use and development according to the principles set
11 forth in 10 V.S.A. § 6086(a).

12 (B) Vermont's water quality should be maintained and improved
13 according to the policies and actions developed in the basin plans established
14 by the Secretary of Natural Resources under 10 V.S.A. § 1253.

15 (7) To encourage the efficient use of energy and the development of
16 renewable energy resources, consistent with the following:

17 (A) Vermont's greenhouse gas reduction goals under 10 V.S.A.
18 § 578(a);

19 (B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A.
20 § 580;

21 (C) Vermont's building efficiency goals under 10 V.S.A. § 581;

1 Sec. 3. 24 V.S.A. § 4345 is amended to read:

2 § 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING
3 COMMISSIONS

4 Any regional planning commission created under this chapter may:

5 (1) ~~Develop an inventory of the region's fire and safety facilities;~~
6 ~~hospitals, rest homes, or other facilities for aging or disabled persons;~~
7 ~~correctional facilities; and emergency shelters; and work with regulated~~
8 ~~utilities, the Department of Public Service, the Department of Public Safety,~~
9 ~~potential developers of distributed power facilities, adjoining regional planning~~
10 ~~commissions, interested adjoining regional entities from adjoining states, and~~
11 ~~citizens of the region to propose and evaluate alternative sites for distributed~~
12 ~~power facilities that might provide uninterrupted local or regional power at~~
13 ~~least for identified critical service providers in time of extended national,~~
14 ~~statewide, or regional power disruption or other emergency. [Repealed.]~~

15 (2)-(5) [Repealed.]

16 (6) ~~Undertake studies and make recommendations on land development,~~
17 ~~urban renewal, transportation, economic, industrial, commercial, and social~~
18 ~~development, urban beautification and design improvements, historic and~~
19 ~~scenic preservation, the conservation of energy and the development of~~
20 ~~renewable energy resources, State capital investment plans, and wetland~~
21 ~~protection. [Repealed.]~~

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Sec. 4. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(14) Appear before the Public Service Board to aid the Board in making determinations under 30 V.S.A. § 248 and shall have the right to appear and participate in proceedings under that statute.

* * *

(19) Develop an inventory of the region’s fire and safety facilities; hospitals, rest homes, or other facilities for aging or disabled persons; correctional facilities; and emergency shelters; and work with regulated utilities, the Department of Public Service, the Department of Public Safety, potential developers of distributed power facilities, adjoining regional planning commissions, interested adjoining regional entities from adjoining states, and citizens of the region to propose and evaluate alternative sites for distributed power facilities that might provide uninterrupted local or regional power at least for identified critical service providers in time of extended national, statewide, or regional power disruption or other emergency.

(20) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial,

1 and social development, urban beautification and design improvements,
2 historic and scenic preservation, the conservation of energy and the
3 development of renewable energy resources, State capital investment plans,
4 and wetland protection.

5 Sec. 5. CLARIFICATION OF EXISTING LAW

6 Sec. 4 of this act, amending 24 V.S.A. § 4345a(14), clarifies existing law.

7 Sec. 6. 24 V.S.A. § 4348a is amended to read:

8 § 4348a. ELEMENTS OF A REGIONAL PLAN

9 (a) A regional plan shall be consistent with the goals established in section
10 4302 of this title and shall include the following:

11 (1) A statement of basic policies of the region to guide the future growth
12 and development of land and of public services and facilities, and to protect the
13 environment.

14 (2) A land use element, which shall consist of a map and statement of
15 present and prospective land uses:

16 (A) indicating those areas proposed for forests, recreation, agriculture
17 (using the agricultural lands identification process established in 6 V.S.A. § 8),
18 residence, commerce, industry, public, and semi-public uses, open spaces, and
19 areas identified by the State, regional planning commissions or municipalities,
20 which require special consideration for aquifer protection, wetland protection,
21 or for other conservation purposes;

1 (B) indicating those areas within the region that are likely candidates
2 for designation under sections 2793 (downtown development districts), 2793a
3 (village centers), 2793b (new town centers), and 2793c (growth centers) of this
4 title;

5 (C) indicating locations proposed for developments with a potential
6 for regional impact, as determined by the regional planning commission,
7 including flood control projects, surface water supply projects, industrial parks,
8 office parks, shopping centers and shopping malls, airports, tourist attractions,
9 recreational facilities, private schools, public or private colleges, and
10 residential developments or subdivisions;

11 (D) setting forth the present and prospective location, amount,
12 intensity, and character of such land uses and the appropriate timing or
13 sequence of land development activities in relation to the provision of
14 necessary community facilities and services;

15 (E) indicating those areas that have the potential to sustain agriculture
16 and recommendations for maintaining them which may include transfer of
17 development rights, acquisition of development rights, or farmer assistance
18 programs.

19 (3) An energy element, which may include ~~an~~ a comprehensive analysis
20 of ~~energy~~ resources, needs, scarcities, costs, and problems within the region,
21 across all energy sectors, including electric, thermal, and transportation; a

1 statement of policy on the conservation and efficient use of energy and the
2 development and siting of distributed and utility-scale renewable energy
3 resources, ~~and~~; a statement of policy on patterns and densities of land use and
4 control devices likely to result in conservation of energy; and a map
5 identifying potential areas for the development and siting of renewable energy
6 resources and areas that are inappropriate for siting those resources or
7 particular categories or sizes of those resources.

8 (4) A transportation element, which may consist of a statement of
9 present and prospective transportation and circulation facilities, and a map
10 showing existing and proposed highways, including limited access highways,
11 and streets by type and character of improvement, and where pertinent,
12 anticipated points of congestion, parking facilities, transit routes, terminals,
13 bicycle paths and trails, scenic roads, airports, railroads and port facilities, and
14 other similar facilities or uses, and recommendations to meet future needs for
15 such facilities, with indications of priorities of need, costs, and method of
16 financing.

17 * * *

1 Sec 7. 24 V.S.A. § 4352 is added to read:

2 § 4352. CERTIFICATION OF ENERGY COMPLIANCE; REGIONAL AND
3 MUNICIPAL PLANS

4 (a) A regional planning commission may submit its adopted regional plan
5 to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a
6 certification of energy compliance. The Commissioner shall issue such a
7 certification on finding that the regional plan is consistent with the statutes,
8 goals, and policies listed in subdivision 4302(c)(7) of this title.

9 (b) If the Commissioner of Public Service has certified a regional plan that
10 is in effect, a municipal legislative body or planning commission within the
11 region may submit its adopted municipal plan to the regional planning
12 commission for a certification of energy compliance. Such a submission may
13 be made separately from or at the same time as a request for review and
14 approval of the municipal plan under section 4350 of this title. The regional
15 planning commission shall issue such a certification on finding that the
16 regional plan is consistent with the statutes, goals, and policies listed in
17 subdivision 4302(c)(7) of this title and the portions of the regional plan that
18 implement those statutes, goals, and policies.

1 Sec. 8. 24 V.S.A. § 4382 is amended to read:

2 § 4382. THE PLAN FOR A MUNICIPALITY

3 (a) A plan for a municipality may be consistent with the goals established
4 in section 4302 of this title and compatible with approved plans of other
5 municipalities in the region and with the regional plan and shall include the
6 following:

7 (1) A statement of objectives, policies, and programs of the municipality
8 to guide the future growth and development of land, public services, and
9 facilities, and to protect the environment.

10 (2) A land use plan:

11 (A) consisting of a map and statement of present and prospective
12 land uses, indicating those areas proposed for forests, recreation, agriculture
13 (using the agricultural lands identification process established in 6 V.S.A. § 8),
14 residence, commerce, industry, public, and semi-public uses and open spaces
15 reserved for flood plain, wetland protection, or other conservation purposes;

16 (B) setting forth the present and prospective location, amount,
17 intensity, and character of such land uses and the appropriate timing or
18 sequence of land development activities in relation to the provision of
19 necessary community facilities and service; and

20 (C) identifying those areas, if any, proposed for designation under
21 chapter 76A of this title, together with, for each area proposed for designation,

1 an explanation of how the designation would further the plan’s goals and the
2 goals of section 4302 of this title, and how the area meets the requirements for
3 the type of designation to be sought.

4 (3) A transportation plan, consisting of a map and statement of present
5 and prospective transportation and circulation facilities showing existing and
6 proposed highways and streets by type and character of improvement, and
7 where pertinent, parking facilities, transit routes, terminals, bicycle paths and
8 trails, scenic roads, airports, railroads, and port facilities, and other similar
9 facilities or uses, with indications of priority of need.

10 (4) A utility and facility plan, consisting of a map and statement of
11 present and prospective community facilities and public utilities showing
12 existing and proposed educational, recreational and other public sites,
13 buildings and facilities, including hospitals, libraries, power generating plants
14 and transmission lines, water supply, sewage disposal, refuse disposal, storm
15 drainage, and other similar facilities and activities, and recommendations to
16 meet future needs for community facilities and services, with indications of
17 priority of need, costs and method of financing.

18 (5) A statement of policies on the preservation of rare and irreplaceable
19 natural areas; and scenic and historic features and resources.

20 * * *

1 (b) The Department, through the Director, shall prepare an electrical energy
2 plan for the State. The Plan shall be for a 20-year period and shall serve as a
3 basis for State electrical energy policy. The Electric Energy Plan shall be
4 based on the principles of “least cost integrated planning” set out in and
5 developed under section 218c of this title. The Plan shall include at a
6 minimum:

7 (1) an overview, looking 20 years ahead, of statewide growth and
8 development as they relate to future requirements for electrical energy,
9 including patterns of urban expansion, statewide and service area economic
10 growth, shifts in transportation modes, modifications in housing types, and
11 design, conservation, and other trends and factors which, as determined by the
12 Director, will significantly affect State electrical energy policy and programs;

13 (2) an assessment of all energy resources available to the State for
14 electrical generation or to supply electrical power, including, among others,
15 fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy
16 and strategies for minimizing the economic and environmental costs of energy
17 supply, including the production of pollutants, by means of efficiency and
18 emission improvements, fuel shifting, and other appropriate means;

19 (3) estimates of the projected level of electrical energy demand;

20 (4) a detailed exposition, including capital requirements and the
21 estimated cost to consumers, of how such demand shall be met based on the

1 assumptions made in subdivision (1) of this subsection and the policies set out
2 in subsection (c) of this section; ~~and~~

3 (5) specific strategies for reducing electric rates to the greatest extent
4 possible in Vermont over the most immediate six-year period, for the next
5 succeeding six-year period, and long-term sustainable strategies for achieving
6 and maintaining the lowest possible electric rates over the full 20-year
7 planning horizon consistent with the goal of maintaining a financially stable
8 electric utility industry in Vermont; and

9 (6) specific policies on the conservation and efficient use of electric
10 energy and the development and siting of renewable electric generation, for
11 use as guidance to municipal and regional planning commissions in preparing
12 land use plans that are consistent with the Plan.

13 (c) In developing the Plan, the Department shall take into account the
14 protection of public health and safety; preservation of environmental quality;
15 the goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all
16 retail electricity customers; the potential for reduction of electrical demand
17 through conservation, including alternative utility rate structures; use of load
18 management technologies; efficiency of electrical usage; utilization of waste
19 heat from generation; and utility assistance to consumers in energy
20 conservation.

1 (d) In establishing plans, the Director shall:

2 (1) Consult with:

3 (A) the public;

4 (B) Vermont municipal utilities and planning commissions;

5 (C) Vermont cooperative utilities;

6 (D) Vermont investor-owned utilities;

7 (E) Vermont electric transmission companies;

8 (F) environmental and residential consumer advocacy groups active

9 in electricity issues;

10 (G) industrial customer representatives;

11 (H) commercial customer representatives;

12 (I) the Public Service Board;

13 (J) an entity designated to meet the public's need for energy

14 efficiency services under subdivision 218c(a)(2) of this title;

15 (K) other interested State agencies; ~~and~~

16 (L) other energy providers; and

17 (M) the regional planning commissions.

18 * * *

19 (h) The Plans adopted under this section shall become the electrical energy

20 portion of the State Energy Plan.

21 * * *

1 Sec. 10. 30 V.S.A. § 202b is amended to read:

2 § 202b. STATE COMPREHENSIVE ENERGY PLAN

3 (a) The Department of Public Service, in conjunction with other State
4 agencies designated by the Governor, shall prepare a State Comprehensive
5 Energy Plan covering at least a 20-year period. The Plan shall seek to
6 implement the State energy policy set forth in section 202a of this title and
7 shall be consistent with the goals of 24 V.S.A. § 4302. The Plan shall include:

8 (1) a comprehensive analysis and projections regarding the use, cost,
9 supply, and environmental effects of all forms of energy resources used within
10 Vermont; ~~and~~

11 (2) recommendations for State implementation actions, regulation,
12 legislation, and other public and private action to carry out the comprehensive
13 energy plan; and

14 (3) specific policies on the conservation and efficient use of energy and
15 the development and siting of energy facilities for use as guidance to municipal
16 and regional planning commissions in preparing land use plans that are
17 consistent with the Plan.

18 (b) In developing or updating the Plan's recommendations, the Department
19 of Public Service shall seek public comment by holding public hearings in at
20 least five different geographic regions of the State on at least three different
21 dates, and by providing notice through publication once a week and at least

1 seven days apart for two or more successive weeks in a newspaper or
2 newspapers of general circulation in the regions where the hearings will be
3 held, and by delivering notices to all licensed commercial radio and television
4 stations with transmitting facilities within the State, plus Vermont Public
5 Radio and Vermont Educational Television.

6 (c) The Department shall adopt a State Energy Plan on or before January 1,
7 2016 and shall readopt the Plan by every sixth January 1 thereafter. On
8 adoption or readoption, the Plan shall be submitted to the General Assembly.
9 The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not
10 apply to such submission.

11 (1) Upon adoption of the Plan, analytical portions of the Plan may be
12 updated and published biennially.

13 (2) Every fourth year after the adoption or readoption of a Plan under
14 this section, the Department shall publish the manner in which the Department
15 will engage the public in the process of readopting the Plan under this section.

16 (3) The publication requirements of subdivisions (1) and (2) of this
17 subsection may be met by inclusion of the subject matter in the Department's
18 biennial report.

19 (4) The Plan's implementation recommendations shall be updated by the
20 Department no less frequently than every six years. These recommendations
21 shall be updated prior to the expiration of six years if the General Assembly

1 passes a joint resolution making a request to that effect. If the Department
2 proposes or the General Assembly requests the revision of implementation
3 recommendations, the Department shall hold public hearings on the proposed
4 revisions.

5 (d) Distribution of the Plan to members of the General Assembly shall be
6 in accordance with the provisions of 2 V.S.A. § 20(a)-(c).

7 Sec. 11. 30 V.S.A. § 248(b) is amended to read:

8 (b) Before the Public Service Board issues a certificate of public good as
9 required under subsection (a) of this section, it shall find that the purchase,
10 investment, or construction:

11 (1) With respect to an in-state facility, will not unduly interfere with the
12 orderly development of the region with due consideration having been given to
13 the recommendations of the municipal and regional planning commissions, the
14 recommendations of the municipal legislative bodies, and the land
15 conservation measures contained in the plan of any affected municipality.

16 However:

17 (A) ~~with~~ With respect to a natural gas transmission line subject to
18 Board review, the line shall be in conformance with any applicable provisions
19 concerning such lines contained in the duly adopted regional plan; and, in
20 addition, upon application of any party, the Board shall condition any
21 certificate of public good for a natural gas transmission line issued under this

1 section so as to prohibit service connections that would not be in conformance
2 with the adopted municipal plan in any municipality in which the line is
3 located; ~~and~~.

4 (B) ~~with~~ With respect to a ground-mounted solar electric generation
5 facility, the facility shall comply with the screening requirements of a
6 municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance
7 adopted under 24 V.S.A. § 2291(28), and the recommendation of a
8 municipality applying such a bylaw or ordinance, unless the Board finds that
9 requiring such compliance would prohibit or have the effect of prohibiting the
10 installation of such a facility or have the effect of interfering with the facility's
11 intended functional use.

12 (C) The Board shall give shall substantial deference to the land
13 conservation measures and specific policies contained in a duly adopted
14 regional and municipal plan that has received a certificate of energy
15 compliance under 24 V.S.A. § 4352.

16 (i) In this subdivision (C), "substantial deference" means that a
17 land conservation measure or specific policy shall be applied in accordance
18 with its terms unless there is a clear and convincing demonstration that other
19 factors affecting the general good of the State outweigh the application of the
20 measure or policy.

1 under section 248 of this title for the plant is filed or in which the plant seeks
2 an award of a contract under the standard offer program under section 8005a of
3 this title, whichever is earlier. To qualify under this subdivision (B), the limits
4 of disturbance of a proposed renewable energy plant must include either the
5 existing structure or impervious surface and shall not include any headwaters,
6 streams, shorelines, floodways, rare and irreplaceable natural areas, necessary
7 wildlife habitat, wetlands, endangered species, productive forestlands, and
8 primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

9 (C) Land certified by the Secretary of Natural Resources to be a
10 brownfield site as defined under 10 V.S.A. § 6642.

11 (D) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that
12 the Secretary of Natural Resources certifies that the land constitutes such a
13 landfill and is suitable for the development of the plant.

14 (E) The disturbed portion of a gravel pit, quarry, or similar site for
15 the extraction of a mineral resource.

16 (F) A specific location designated in a duly adopted municipal plan
17 under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or
18 specific type or size of renewable energy plant, provided that the plant meets
19 any siting criteria recommended in the plan for the location. On or after
20 January 1, 2019, to qualify under this subdivision (F), the plan must be
21 certified under 24 V.S.A. § 4352.

1 (G) If the plant constitutes a net metering system, then in addition to
2 subdivisions (A) through (F) of this subdivision (30), a site designated by
3 Board rule as a preferred location.

4 Sec. 13. 30 V.S.A. § 8004(g) is added to read:

5 (g) Preferred locations. With respect to a renewable energy plant to be
6 located in the State whose energy or environmental attributes may be used to
7 satisfy the requirements of the RES, the Board shall exercise its authority
8 under this section and sections 8005 and 8006 of this title to promote siting
9 such a plant in a preferred location.

10 Sec. 14. 30 V.S.A. § 8005a is amended to read:

11 § 8005a. STANDARD OFFER PROGRAM

12 (a) Establishment. A standard offer program is established. To achieve the
13 goals of section 8001 of this title, the Board shall issue standard offers for
14 renewable energy plants that meet the eligibility requirements of this section.

15 The Board shall implement these standard offers by rule, order, or contract and
16 shall appoint a Standard Offer Facilitator to assist in this implementation. For
17 the purpose of this section, the Board and the Standard Offer Facilitator
18 constitute instrumentalities of the State.

19 (b) Eligibility. To be eligible for a standard offer under this section, a plant
20 must constitute a qualifying small power production facility under 16 U.S.C.
21 § 796(17)(C) and 18 C.F.R. part 292, must not be a net metering system under

1 section 219a of this title, and must be a new standard offer plant. In this
2 section, “new standard offer plant” means a renewable energy plant that is
3 located in Vermont, that has a plant capacity of 2.2 MW or less, and that is
4 commissioned on or after September 30, 2009.

5 (c) Cumulative capacity. In accordance with this subsection, the Board
6 shall issue standard offers to new standard offer plants until a cumulative plant
7 capacity amount of 127.5 MW is reached.

8 (1) Pace. Annually commencing April 1, 2013, the Board shall increase
9 the cumulative plant capacity of the standard offer program (the annual
10 increase) until the 127.5-MW cumulative plant capacity of this subsection is
11 reached.

12 (A) Annual amounts. The amount of the annual increase shall be five
13 MW for the three years commencing April 1, 2013, 7.5 MW for the three years
14 commencing April 1, 2016, and 10 MW commencing April 1, 2019.

15 (B) Blocks. Each year, a portion of the annual increase shall be
16 reserved for new standard offer plants proposed by Vermont retail electricity
17 providers (the provider block), and the remainder shall be reserved for new
18 standard offer plants proposed by persons who are not providers (the
19 independent developer block).

20 (i) The portion of the annual increase reserved for the provider
21 block shall be 10 percent for the three years commencing April 1, 2013,

1 15 percent for the three years commencing April 1, 2016, and 20 percent
2 commencing April 1, 2019.

3 (ii) If the provider block for a given year is not fully subscribed,
4 any unsubscribed capacity within that block shall be added to the annual
5 increase for each following year until that capacity is subscribed and shall be
6 made available to new standard offer plants proposed by persons who are not
7 providers.

8 (iii) If the independent developer block for a given year is not
9 fully subscribed, any unsubscribed capacity within that block shall be added
10 to the annual increase for each following year until that capacity is
11 subscribed and:

12 (I) shall be made available to new standard offer plants
13 proposed by persons who are not providers; and

14 (II) may be made available to a provider following a written
15 request and specific proposal submitted to and approved by the Board.

16 (C) Adjustment; greenhouse gas reduction credits. The Board shall
17 adjust the annual increase to account for greenhouse gas reduction credits by
18 multiplying the annual increase by one minus the ratio of the prior year's
19 greenhouse gas reduction credits to that year's statewide retail electric sales.

1 (i) The amount of the prior year's greenhouse gas reduction
2 credits shall be determined in accordance with subdivision 8006a(a) of this
3 title.

4 (ii) The adjustment in the annual increase shall be applied
5 proportionally to the independent developer block and the provider block.

6 (iii) Greenhouse gas reduction credits used to diminish a
7 provider's obligation under section 8004 of this title may be used to adjust the
8 annual increase under this subsection (c).

9 (D) Pilot project; preferred locations. For a period of three years
10 commencing on January 1, 2017, the Board shall allocate one-third of the
11 annual increase to new standard offer plants that will be wholly located in one
12 or more preferred locations, provided that using the location does not require
13 the construction of a new substation by the interconnecting retail electricity
14 provider or increasing the capacity of one or more of the provider's existing
15 facilities. This allocation shall apply proportionally to the independent
16 developer block and provider block.

17 (2) Technology allocations. The Board shall allocate the 127.5-MW
18 cumulative plant capacity of this subsection among different categories of
19 renewable energy technologies. These categories shall include at least each of
20 the following: methane derived from a landfill; solar power; wind power with a
21 plant capacity of 100 kW or less; wind power with a plant capacity greater than

1 100 kW; hydroelectric power; and biomass power using a fuel other than
2 methane derived from an agricultural operation or landfill.

3 * * *

4 (f) Price. The categories of renewable energy for which the Board shall set
5 standard offer prices shall include at least each of the categories established
6 pursuant to subdivision (c)(2) of this section. The Board by order shall
7 determine and set the price paid to a plant owner for each kWh generated
8 under a standard offer required by this section, with a goal of ensuring timely
9 development at the lowest feasible cost. The Board shall not be required to
10 make this determination as a contested case under 3 V.S.A. chapter 25.

11 (1) Market-based mechanisms. For new standard offer projects, the
12 Board shall use a market-based mechanism, such as a reverse auction or other
13 procurement tool, to obtain up to the authorized amount of a category of
14 renewable energy, if it first finds that use of the mechanism is consistent with:

15 (A) applicable federal law; and

16 (B) the goal of timely development at the lowest feasible cost.

17 (2) Avoided cost.

18 (A) The price paid for each category of renewable energy shall be the
19 avoided cost of the Vermont composite electric utility system if the Board
20 finds either of the following:

1 (i) Use of the pricing mechanism described in subdivision
2 (1)(market-based mechanisms) of this subsection (f) is inconsistent with
3 applicable federal law.

4 (ii) Use of the pricing mechanism described in subdivision
5 (1)(market-based mechanisms) of this subsection (f) is reasonably likely to
6 result in prices higher than the prices that would apply under this
7 subdivision (2).

8 (B) ~~For the purpose of~~ As used in this subsection (f), the term
9 “avoided cost” means the incremental cost to retail electricity providers of
10 electric energy or capacity or both, which, but for the purchase through the
11 standard offer, such providers would obtain from distributed renewable
12 generation that uses the same generation technology as the category of
13 renewable energy for which the Board is setting the price. ~~For the purpose of~~
14 As used in this subsection (f), the term “avoided cost” also includes the
15 Board’s consideration of each of the following:

16 (i) The relevant cost data of the Vermont composite electric utility
17 system.

18 (ii) The terms of the contract, including the duration of the
19 obligation.

1 on a preferred location and uses the same generation technology as the
2 category of renewable energy for which the Board is setting the price.

3 Sec. 15. 30 V.S.A. § 8010 is amended to read:

4 § 8010. SELF-GENERATION AND NET METERING

5 * * *

6 (c) In accordance with this section, the Board shall adopt and implement
7 rules that govern the installation and operation of net metering systems.

8 (1) The rules shall establish and maintain a net metering program that:

9 * * *

10 (G) accounts for changes over time in the cost of technology; ~~and~~

11 (H) allows a customer to retain ownership of the environmental
12 attributes of energy generated by the customer's net metering system and of
13 any associated tradeable renewable energy credits or to transfer those attributes
14 and credits to the interconnecting retail provider, and:

15 (i) if the customer retains the attributes, reduces the value of the
16 credit provided under this section for electricity generated by the customer's
17 net metering system by an appropriate amount; and

18 (ii) if the customer transfers the attributes to the interconnecting
19 provider, requires the provider to retain them for application toward
20 compliance with sections 8004 and 8005 of this title; and

1 (A) The municipality’s duly adopted plan under 24 V.S.A. chapter
2 117 designates a tract of land of not less than 20 acres for the colocation of net
3 metering systems.

4 (B) Each net metering system will be located on this tract.

5 (C) Each net metering system to be located on the tract is approved
6 by the municipality’s legislative body prior to approval by the Board.

7 (2) In a municipality that has designated a tract for colocation of net
8 metering systems pursuant to this subsection, the Board shall reduce, by three
9 cents per kWh, the amount of the bill credit that would otherwise apply to each
10 net metering system that is greater than 15 kW in plant capacity and is to be
11 located outside the designated tract.

12 (f) The Board may allow the net metering of a portion of a renewable
13 energy plant whose plant capacity exceeds 500 kW if each of the following
14 applies:

15 (1) The plant meets the definition of net metering system under section
16 8002 of this title but for its plant capacity.

17 (2) The plant has obtained the consent of the interconnecting retail
18 electricity provider.

19 (3) The amount of plant capacity to be net metered does not exceed
20 500 kW.

21 (4) With respect to the amount of the plant capacity to be net metered:

1 (A) The plant will allocate the bill credits to the host municipality or
2 to customers within a five-mile radius of the facility, or both.

3 (B) The plant will transfer the associated environmental attributes
4 and tradeable renewable energy credits to the interconnecting provider, which
5 shall retire them and apply them toward compliance with the RES.

6 * * * Regulatory Process; Public Assistance Officer * * *

7 Sec. 16. 30 V.S.A. § 3 is amended to read:

8 § 3. PUBLIC SERVICE BOARD

9 (a) The ~~public service board~~ Public Service Board shall consist of a
10 ~~chairperson~~ chair and two members. The ~~chairperson~~ Chair and each member
11 shall not be required to be admitted to the practice of law in this ~~state~~ State.

12 * * *

13 (g) The ~~chairperson~~ Chair shall have general charge of the offices and
14 employees of the ~~board~~ Board.

15 (h) The Board shall employ a Public Assistance Officer (PAO) in
16 accordance with this subsection.

17 (1) The PAO shall provide guidance to and answer questions from
18 parties and members of the public on all matters under this title concerning the
19 siting and construction of facilities in the State that generate or transmit
20 electricity, constitute a meteorological station as defined in section 246 of this

1 title, or constitute a natural gas facility as defined in subdivision 248(a)(3) of
2 this title. As used in this section:

3 (A) “Contested case” has the same meaning as in 3 V.S.A. § 801.

4 (B) “Matter” means any proceeding before or by the Board, including
5 an application for a certificate of public good, a petition for condemnation,
6 rulemaking, and the issuance of guidance or procedures.

7 (2) Guidance and information to be provided by the PAO shall include
8 the following:

9 (A) An explanation of the proceeding, including its purpose; its type,
10 such as rulemaking or contested case; and the restrictions or lack of restrictions
11 applicable to the type of proceeding, such as whether ex parte communications
12 are prohibited.

13 (B) Answers to procedural questions and direction to the statutes and
14 rules applicable to the proceeding.

15 (C) How to participate in the proceeding including, if necessary for
16 participation, how to file to a motion to intervene and how to submit prefiled
17 testimony. The Board shall create forms and templates for motions to
18 intervene, prefiled testimony, and other types of documents commonly filed
19 with the Board, which the PAO shall provide to a person on request. The
20 Board shall post these forms and templates on the Board’s website.

21 (D) The responsibilities of intervenors and other parties.

1 (E) The status of the proceeding. Examples of a proceeding’s status
2 include: a petition has been filed; the proceeding awaits scheduling a
3 prehearing conference or hearing; parties are conducting discovery or
4 submitting prefiled testimony; hearings are concluded and parties are preparing
5 briefs; and the proceeding is under submission to the Board and awaits a
6 decision. For each proceeding in which the next action constitutes the issuance
7 of an order, decision, or proposal for decision by the Board or a hearing
8 officer, the Chair or assigned hearing officer shall provide the PAO with an
9 expected date of issuance and the PAO shall provide this expected date to
10 requesting parties or members of the public.

11 (3) For each proceeding within the scope of subdivision (1) of this
12 subsection, the Board shall post, on its website, electronic copies of all filings
13 and submissions to the Board and all orders of the Board.

14 (4) The Board shall adopt rules or procedures to ensure that the
15 communications of the PAO with the Board’s members and other employees
16 concerning contested cases do not contravene the requirements of the
17 Administrative Procedure Act applicable to such cases.

18 (5) The PAO shall have a duty to provide requesting parties and
19 members of the public with information that is accurate to the best of the
20 PAO’s ability. The Board and its other employees shall have a duty to transmit

1 accurate information to the PAO. However, the Board and any assigned
2 hearing officer shall not be bound by statements of the PAO.

3 (6) The PAO shall not be an advocate for any person and shall not have
4 a duty to assist a person in the actual formation of the person's position or
5 arguments before the Board or the actions necessary to advance the person's
6 position or arguments such as the actual preparation of motions, memoranda,
7 or prefiled testimony.

8 (7) The Board may assign secondary duties to the PAO that do not
9 conflict with the PAO's execution of his or her duties under this subsection.

10 Sec. 17. POSITION; APPROPRIATION

11 The following classified position is created in the Public Service Board—
12 one permanent, full-time Public Assistance Officer for the purpose of Sec. 2 of
13 this act. There is appropriated to the Public Service Board for fiscal year 2017
14 from the special fund described in 30 V.S.A. § 22 the amount of \$100,000.00
15 for the purpose of this position.

16 Sec. 18. 30 V.S.A. § 248(a)(4) is amended to read:

17 (4)(A) With respect to a facility located in the State, the Public Service
18 Board shall hold a nontechnical public hearing on each petition for such
19 finding and certificate in at least one county in which any portion of the
20 construction of the facility is proposed to be located.

1 (B) The Public Service Board shall hold technical hearings at
2 locations which it selects.

3 (C) At the time of filing its application with the Board, copies shall
4 be given by the petitioner to the Attorney General and the Department of
5 Public Service, and, with respect to facilities within the State, the Department
6 of Health, Agency of Natural Resources, Historic Preservation Division,
7 Agency of Transportation, Agency of Agriculture, Food and Markets, and to
8 the chair or director of the municipal and regional planning commissions and
9 the municipal legislative body for each town and city in which the proposed
10 facility will be located.

11 (D) Notice of the public hearing shall be published and maintained
12 on the Board’s website for at least 12 days before the day appointed for the
13 hearing. Notice of the public hearing shall be published once in a newspaper
14 of general circulation in the county or counties in which the proposed facility
15 will be located, and the notice shall include an Internet address where more
16 information regarding the proposed facility may be viewed.

17 (E) The Agency of Natural Resources shall appear as a party in any
18 proceedings held under this subsection, shall provide evidence and
19 recommendations concerning any findings to be made under subdivision (b)(5)
20 of this section, and may provide evidence and recommendations concerning
21 any other matters to be determined by the Board in such a proceeding.

1 (F) The Agency of Agriculture, Food and Markets shall have the
2 right to appear as a party in any proceedings held under this subsection.

3 (G) The regional planning commission for the region in which the
4 facility is located shall have the right to appear as a party in any proceedings
5 held under this subsection. The regional planning commission of an adjacent
6 region shall have the same right if the facility is located within 500 feet of the
7 boundary of that planning commission.

8 (H) The legislative body and the planning commission for the
9 municipality in which a facility is located shall have the right to appear as a
10 party in any proceedings held under this subsection. The legislative body and
11 planning commission of an adjacent municipality shall have the same right if
12 the facility is located within 500 feet of the boundary of that adjacent
13 municipality.

14 (I) When a person has the right to appear and participate in a
15 proceeding before the Board under this chapter, the person may activate this
16 right by filing a letter with the Board stating that the person appears through
17 the person's duly authorized representative, signed by that representative.

18 (J) With respect to an application for an electric generation facility
19 with a capacity that is greater than 15 kilowatts:

20 (i) In addition to any other information required by the Board, the
21 application shall include information that delineates:

1 (I) the full limits of physical disturbance due to the construction
2 and operation of the facility and related infrastructure, including areas
3 disturbed due to the creation or modification of access roads and utility lines
4 and the clearing or management of vegetation;

5 (II) the presence and total acreage of primary agricultural soils
6 as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in
7 connection with the construction and operation of the facility and the amount
8 of those soils to be disturbed;

9 (III) all visible infrastructure associated with the facility; and

10 (IV) all impacts of the facility’s construction and operation
11 under subdivision (b)(5) of this section, including impacts due to the creation
12 or modification of access roads and utility lines and the clearing or
13 management of vegetation.

14 (ii) When all parties to an application for an electric generation
15 facility under this section are known but before any technical hearings are held,
16 the Board shall determine whether the proceeding is appropriate for mediation
17 and, if this determination is affirmative, shall direct the parties to engage in
18 mediation. The parties shall jointly choose and shall share the costs of the
19 mediator.

20 Sec. 19. 30 V.S.A. § 248(f) is amended to read:

1 (f) However, plans for the construction of such a facility within the State
2 must be submitted by the petitioner to the municipal and regional planning
3 commissions no less than 45 days prior to application for a certificate of public
4 good under this section, unless the municipal and regional planning
5 commissions shall waive such requirement.

6 (1) Such municipal or regional planning commission may hold a public
7 hearing on the proposed plans. Such commissions shall make
8 recommendations, if any, to the Public Service Board and to the petitioner at
9 least seven days prior to filing of the petition with the Public Service Board.

10 (2) The petitioner's application shall respond to each comment made at
11 the public hearing or received by the petitioner with respect to the submittal
12 made under this subsection.

13 * * * CPG Conditions: Aesthetics Mitigation and Decommissioning * * *
14 Sec. 20. 30 V.S.A. § 248(t) and (u) are added to read:

15 (t) A certificate under this section for an in-state facility shall require the
16 following with respect to all measures to be undertaken to mitigate the impacts
17 of the facility on aesthetics and scenic beauty:

18 (1) The certificate holder shall obtain a certification from a qualified
19 expert, chosen by the Board, that all required mitigation measures have been
20 undertaken and all required plantings have been installed.

1 (2) The certificate holder shall have site control over all vegetation used
2 to demonstrate that the facility will not have an undue adverse effect on
3 aesthetics and all locations on which mitigation plantings are to be installed.

4 (3) For three years after installation of all required plantings, the
5 certificate holder annually shall submit documentation by a qualified expert,
6 chosen by the Board, that the plantings have been maintained in accordance
7 with the approved plans.

8 (4) The certificate holder shall have an ongoing duty to maintain the
9 plantings in accordance with the approved plans and replace dead or diseased
10 plantings as soon as seasonably possible.

11 (u) A certificate under this section for an in-state electric generation facility
12 with a capacity that is greater than 15 kilowatts shall require the
13 decommissioning or dismantling of the facility and ancillary improvements at
14 the end of the facility's useful life and the posting of a bond or other security
15 acceptable to the Board that is sufficient to finance the decommissioning or
16 dismantling activities in full.

17 * * * Eminent Domain; Nondisclosure Agreements * * *

18 Sec. 21. 30 V.S.A. § 110 is amended to read:

19 § 110. EMINENT DOMAIN; COMPANIES AUTHORIZED

20 When it is necessary for a corporation formed under this chapter or a
21 foreign corporation under the jurisdiction of the ~~public service board~~ Public

1 Service Board to acquire property within this ~~state~~ State, or some easement or
2 other limited right in such property in order that it may render adequate service
3 to the public in the conduct of its business, it may condemn such property or
4 right, as provided in sections 111-124 of this title. All other companies, as
5 defined in sections 201 and 501 of this title, which are within the scope of
6 sections 203 and 501 of this title, shall have the same power of condemnation
7 and be subject to the same procedure as ~~hereinafter~~ provided in sections
8 111–124 for condemnation by corporations subject to the jurisdiction of the
9 ~~public service board~~ Public Service Board. However, a company shall forfeit
10 the right to condemn property in order to construct, reconstruct, or modify a
11 facility in this State if the company has executed an agreement with an owner
12 or former owner of property to be used in connection with the facility or any
13 part of a larger undertaking that includes the facility and the agreement
14 prohibits or has the effect of prohibiting that owner from disclosing payments
15 made or to be made by the company to the owner, other consideration provided
16 or to be provided by the company to the owner, or any other terms or
17 conditions contained in an agreement between the company and the owner.

18 * * * Three-Phase Power; Siting in Less Intrusive Locations * * *

19 Sec. 22. 30 V.S.A. § 218 is amended to read:

20 § 218. JURISDICTION OVER CHARGES AND RATES

21 * * *

1 (f) Regulatory incentives for renewable generation.

2 (1) Notwithstanding any other provision of law, an electric distribution
3 utility subject to rate regulation under this chapter shall be entitled to recover
4 in rates its prudently incurred costs in applying for and seeking any certificate,
5 permit, or other regulatory approval issued or to be issued by federal, State, or
6 local government for the construction of new renewable energy to be sited in
7 Vermont, regardless of whether the certificate, permit, or other regulatory
8 approval ultimately is granted.

9 (2) The Board is authorized to provide to an electric distribution utility
10 subject to rate regulation under this chapter an incentive rate of return on
11 equity or other reasonable incentive on any capital investment made by such
12 utility in a renewable energy generation facility sited in Vermont.

13 (3) To encourage joint efforts on the part of electric distribution utilities
14 to support renewable energy and to secure stable, long-term contracts
15 beneficial to Vermonters, the Board may establish standards for preapproving
16 the recovery of costs incurred on a renewable energy plant that is the subject of
17 that joint effort, if the construction of the plant requires a certificate of public
18 good under section 248 of this title and all or part of the electricity generated
19 by the plant will be under contract to the utilities involved in that joint effort.

20 (4) On petition of a plant owner or electric distribution utility whose
21 interest is affected, the Board shall require an electric distribution utility to

1 provide a three-phase line extension to a plant that constitutes new renewable
2 energy and is approved under section 248 of this title and shall allow the utility
3 to recover its prudently incurred costs of this extension in rates if, after notice
4 and opportunity for hearing, the Board finds each of the following:

5 (A) The plant will be built in a municipality in which one or more
6 other sites exist on which the plant could be built without a three-phase line
7 extension or will be built in a municipality adjacent to the municipality in
8 which such site or sites exist.

9 (B) Without mitigation, constructing the plant on the site or sites that
10 do not require a three-phase line extension would have an undue adverse effect
11 on the aesthetics and scenic beauty of the area.

12 (C) Constructing the plant on a site that requires a three-phase line
13 extension would substantially reduce the visual impact of the plant and, if so
14 constructed, the plant would not have an undue adverse effect on the aesthetics
15 and scenic beauty of the area.

16 (D) The cost of a three-phase line extension to the plant is less than
17 the cost of aesthetic mitigation for the site or sites on which the plant could be
18 built without three-phase power.

19 (5) In this subsection:

