

ORIGINAL

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1996

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2 Introduced by Committee on Commerce

3 Date:

4 Subject: Public service; telecommunications companies; electric and natural gas utilities;
5 enhanced 911; weatherization gross receipts tax; utility consumer complaint
6 records; regulatory gross receipts tax

7 Statement of purpose: This bill proposes to amend Vermont's utility laws by
8 (1) prohibiting "slamming" by telecommunications companies, (2) amending the
9 telecommunications incentive regulation law, (3) amending the universal service law and
10 authorizing high cost area credits, (4) reauthorizing the enhanced 911 law, (5) allowing
11 billback charges in Federal Energy Regulatory Commission proceedings, (6) authorizing
12 energy assurance programs for low income customers, (7) authorizing incentive
13 regulation for electric and natural gas utilities, (8) allowing additional time in rate design
14 cases, and allowing campground submetering, (9) reauthorizing the weatherization gross
15 receipts tax, (10) maintaining the confidentiality of utility consumer complaint records,
16 (11) extending and amending the regulatory gross receipts tax rates, and (12) amending
17 various laws relating to public service board reports, members, and staff.

18 AN ACT RELATING TO PUBLIC SERVICE COMPANIES

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Telecommunications * * *

3 Sec. 1. 30 V.S.A. § 208a is added to read:

4 § 208a. SELECTION OF PRIMARY INTEREXCHANGE CARRIER

5 (a) No provider of telecommunications interexchange services shall submit a primary
6 interexchange carrier change order to a local exchange telecommunications company
7 unless and until the interexchange carrier has obtained express authorization from the
8 customer for the change. Upon request of the customer, offers to provide
9 telecommunications interexchange services shall be sent to the customer in written form
10 describing the terms and conditions of service. As used in this section, "express
11 authorization" means an express, affirmative act by the customer clearly agreeing to the
12 change in primary interexchange carrier, in the form of a written authorization, recorded
13 electronic authorization, or some other form of recorded authorization.

see P. 2a

14 (b) If the public service board determines after opportunity for hearing that an
15 interexchange carrier has failed to comply with this section, or rules adopted by the board
16 in submitting a primary interexchange carrier change order, in addition to other penalties
17 under this title, the board shall direct the interexchange carrier to reimburse the local
18 exchange carrier for any costs associated with the invalid primary interexchange carrier
19 change order.

20 (c) The public service board shall adopt such rules as are necessary to carry out the

. a customer initiated call to the interexchange carrier, an oral authorization
verified by an independent third party

1 purposes of this section. Such rules shall be no less stringent than the federal rules
2 relating to primary interexchange carrier changes, and shall include such further
3 provisions as are needed to implement the provisions of this section.

4 Sec. 2. ADOPTION OF RULES

5 The public service board shall, within 60 days of the effective date of this section,
6 adopt emergency rules implementing Sec. 1 of this act. Such emergency rules shall
7 remain in effect until permanent rules are adopted. Within one year of the effective date
8 of this section, the public service board shall establish permanent rules to prohibit
9 unauthorized primary interexchange carrier changes.

10 Sec. 3. 30 V.S.A. § 226b is amended to read:

11 § 226b. INCENTIVE REGULATION OF BASIC EXCHANGE TELECOMMUNI-
12 CATIONS PROVIDERS

13 (a) Upon petition of a basic exchange telecommunications service provider, upon
14 request of the department of public service, or on its own initiative, the public service
15 board may approve alternative forms of regulation other than the traditional methods
16 based upon cost of service, rate base and rate of return.

17 (b) As used in this section:

18 (1) "Alternative forms of regulation" include, but are not limited to, incentive
19 regulation, earnings sharing, categorization of services for the purpose of pricing, price
20 caps, price indexing formulae, ranges of authorized returns, detariffing and reduction or

1 suspension of regulatory requirements.

2 (2) "Basic exchange telecommunications service" has the same meaning as under
3 section 226a of this title.

4 (c) The board shall approve alternative forms of regulation only if it finds, after notice
5 and hearing, that such regulation, in its entirety:

6 (1) promotes the general good of the state;

7 (2) is consistent with the state telecommunications purposes established under
8 section 202c of this title;

9 (3) is consistent with the state telecommunications plan adopted by the department
10 of public service under section 202d of this title, or there exists good cause to approve
11 alternative forms of regulation notwithstanding this inconsistency;

12 (4) is consistent with the public's interests relating to appropriate quality
13 telecommunications services;

14 (5) is consistent with the goal of protecting or promoting universal service to
15 residential users of telecommunications;

16 (6) provides reasonable incentives for the creation of a modern
17 telecommunications infrastructure and the appropriate implementation of new
18 cost-effective technologies;

19 (7) reasonably supports economic development in the affected service territory;

20 (8) adequately protects consumer privacy interests;

1 (9) supports reasonable competition;

2 (10) includes adequate safeguards to insure that charges for noncompetitive services
3 do not subsidize competitive services; and

4 (11) is just and reasonable and would not produce unjust discrimination between
5 users of the public switched network in the pricing, quality, or availability of the network
6 functions or services offered.

See P. 5a

7 ~~(d) Prior to approving or modifying an alternative form of regulation with respect to a~~
8 ~~specific basic exchange telecommunications provider, the board shall establish, and may~~
9 ~~amend from time to time, standards and procedures by which the effectiveness of the~~
10 ~~alternative form of regulation can be determined.~~

11 (e) In reviewing a petition to approve alternative forms of regulation, the board shall
12 follow procedures substantially similar to those contained in sections 225, 226 and 227 of
13 this title, except that if the board has not acted on the petition within nine months after the
14 board has ordered suspension and investigation, the petition shall be deemed granted. By
15 rule, the board may prescribe the minimum contents of a filing under this section.

16 (f) Where a petition for alternative forms of regulation has been filed by the
17 department or a basic exchange telecommunications service provider, and the board
18 determines that the proposal does not satisfy the requirements of this section, it may
19 either reject the proposal or issue ~~an order of conditional approval~~ a proposed order
20 approving alternative regulation with such modifications as the board determines

(d) Prior to approving ~~or~~ modifying or renewing an alternative form of regulation with respect to a specific basic exchange telecommunications provider, the board shall establish, and may amend from time to time, standards and procedures by which the effectiveness of the alternative form of regulation can be determined.

1 necessary to satisfy the requirements of this section. Within 20 days after issuance of a
2 proposed order under this section, any party may submit comments and may offer to
3 provide additional evidence concerning the proposed order. After review of such
4 comments, and after conducting any additional hearings that the board determines to be
5 necessary, the board shall issue a final order with such modifications as the board
6 determines to be necessary to satisfy the requirements of this section. If the board
7 determines that ~~additional~~ ^{reasonably} evidence offered by a party should have been introduced at
8 hearings prior to the proposed order, the board may exclude such evidence. The board
9 shall issue its final order within 45 days after the proposed order is issued, or within 90
10 days after the proposed order is issued if further hearings have been held.

11 (g) Any final order approving or modifying ~~of~~ alternative forms of regulation shall, by
12 its terms, take effect not sooner than ~~60~~ 30 days following its issuance. ~~During those 60~~
13 ~~days, the basic exchange telecommunications service provider subject to the order may~~
14 ~~file at the board a statement that it declines to be regulated under the order. Following the~~
15 ~~filing of such a statement, the basic exchange telecommunications service provider shall~~
16 ~~continue to be regulated under all orders and regulations that applied before an order was~~
17 ~~issued approving alternative forms of regulation.~~

18 (h) An order establishing an alternative form of regulation may include:

19 (1) exemption from or reduction of the requirements of sections 218(a), 225, 226
20 and 227 of this title, including rate of return requirements;

1 (2) terms and conditions for establishing new services, withdrawing services, price
2 changes to services, and services by contract to individual customers; and

3 (3) other rates, terms, and conditions that the board finds to be consistent with the
4 general considerations and standards under subsections (c) and (d) of this section.

5 (i) While an order approving alternative forms of regulation is in effect, the
6 department of public service and the public service board may conduct investigations into
7 the effectiveness of the alternative forms of regulation, and whether a traditional form of
8 regulation should be restored. Following notice and an opportunity for hearing, the
9 public service board may terminate an order establishing an alternative form of regulation
10 and restore a traditional form of regulation, or it may modify the order approving
11 alternative forms of regulation.

12 (j) If at any time an order establishing an alternative form of regulation has been in
13 effect for ~~48 months~~ seven years without having been renewed, the order shall be deemed
14 of no further force or effect and the waiver of statutory requirements under this title shall
15 expire. All tariffs then in effect shall remain in effect until further order of the board.

16 (k) A basic exchange telecommunications service provider operating under an
17 alternative form of regulation, the department of public service, or the public service
18 board may initiate a proceeding to renew an order approving an alternative form of
19 regulation. The provisions of this section shall apply to a proposed renewal of an
20 alternative form of regulation. The board may issue orders approving, denying, or

1 modifying the proposed renewal. In reviewing a proposed renewal of an alternative form
2 of regulation, the board may consider the basic exchange telecommunications service
3 provider's performance for the duration of the alternative form of regulation in effect at
4 the time the renewal is initiated. Nothing in this section shall require the board to
5 conduct cost of service, rate base, or rate of return analyses.
6 ~~Sec. 4. 30 V.S.A. § 7501(b) is amended to read:~~

6 (b) As used in this chapter:

7 (1) "Basic telecommunications service" means that a customer has available at his
8 or her location:

9 (A) switched one-party voice grade interactive telecommunications service
10 permitting origination and termination of calls;

11 (B) the ability to transmit network switching instructions through tones
12 generated by customer-owned equipment;

13 (C) the ability to transmit and receive the customer's computer-generated digital
14 data, either by digital or analog transmission, reliably and at common transmission rates,
15 using customer-owned equipment;

16 (D) the ability to communicate quickly and effectively with emergency
17 response personnel; ~~and~~

18 (E) access to the telecommunications relay service, as authorized under section
19 218a of this title;

20 ~~(F) access to operator assistance and online directory assistance;~~

1 ~~(G) a written directory with listings that conform to standards adopted by the~~
2 ~~public service board;~~

3 ~~(H) public telephones that are accessible within a reasonable distance from the~~
4 ~~customer's location; and~~

5 ~~(I) other related services as may be required from time to time by order of the~~
6 ~~public service board, after consideration of the demand for a service, the ability of a~~
7 ~~service to access other telecommunications services, whether the service is optional, and~~
8 ~~the cost of the service.~~

9 Sec. 5. 30 V.S.A. § 7515 is amended to read:

10 § 7515. ~~HIGH-COST BASIC TELECOMMUNICATIONS SERVICE; PROTECTION~~
11 ~~FOR CUSTOMERS IN HIGH COST AREAS~~

12 ~~(a) The general assembly intends that the universal service charge be used in the~~
13 ~~future as a means of keeping basic telecommunications service affordable in all parts of~~
14 ~~this state, thereby maintaining universal service. In the future, and after this section has~~
15 ~~been amended by further act of legislation, payments may be made to reduce the cost of~~
16 ~~basic telecommunications service in areas where that cost would otherwise jeopardize~~
17 ~~universal service or uniform economic development.~~

18 ~~(b) The public service board shall conduct a study of the costs and other factors~~
19 ~~affecting the delivery of local exchange service. The study shall be conducted either as~~
20 ~~an independent inquiry or as part of a proceeding or docket affecting other matters. The~~

1 ~~study shall:~~

2 ~~(1) After considering information on how various factors affect the costs of~~
3 ~~providing telecommunications service in Vermont and elsewhere, estimate, on a~~
4 ~~forward-looking basis, the differential costs of providing local exchange service to~~
5 ~~various customer groups throughout Vermont.~~

6 ~~(2) Estimate the relationship between basic telecommunications service charges~~
7 ~~and universal service, and the threshold level beyond which universal residential service~~
8 ~~is likely to be harmed.~~

9 ~~(3) Estimate the relationship between basic telecommunications service charges~~
10 ~~and opportunities for uniform economic development throughout the state, and the~~
11 ~~threshold prices beyond which such opportunities may be adversely affected.~~

12 ~~(4) Estimate the potential effects of local exchange competition on uniform and~~
13 ~~affordable basic telecommunications service charges in all parts of the state.~~

14 ~~(5) Examine policy options by which the cost to customers may be managed so as~~
15 ~~not to jeopardize universal service and the uniform economic development opportunities;~~
16 ~~including at least the following:~~

17 ~~(A) establishing a maximum price for basic telecommunications service,~~
18 ~~beyond which customers would have access, without regard to income, to credits or~~
19 ~~vouchers negotiable for local exchange service from a local exchange provider or~~
20 ~~competitive access provider;~~

1 ~~(B) broadening eligibility for the lifeline program; and~~

2 ~~(C) establishing a mechanism to adjust the level of support for higher cost~~
3 ~~customers over time to reflect legal rights, recover historic costs, and reflect the~~
4 ~~advantages of improved technology and increased efficiency.~~

5 ~~(6) Examine the actions, if any, of the Federal Communications Commission in~~
6 ~~revising its universal service fund, and the need, if any, for additional action in Vermont.~~

7 ~~(7) Propose mechanisms to support universal service and rural economic~~
8 ~~development while securing the benefits of telecommunications competition for Vermont~~
9 ~~households and businesses.~~

10 ~~The results of the study, together with any plan for amending and distributing funds~~
11 ~~under this section, shall be submitted to the general assembly on or before January 15,~~
12 ~~1996.~~

13 ~~(a) The general assembly intends that the universal service charge, and the high cost~~
14 ~~area credits authorized by this section, be used as a means of keeping basic~~
15 ~~telecommunications service affordable in all parts of this state, thereby maintaining~~
16 ~~universal service while enhancing the prospects for competition among basic~~
17 ~~telecommunications service providers.~~

18 ~~(b) As used in this section:~~

19 ~~(1) "A high cost area" means an area of the state where the public service board~~
20 ~~has determined, after notice and hearing, that the price of basic telecommunications~~

1 ~~service is in excess of 130 percent of the state average. Where two or more wireline~~
2 ~~competitors offer basic telecommunications service to an area, the public service board~~
3 ~~shall define a method to determine whether the area is a high cost area.~~

4 ~~(2) "The price of basic telecommunications service" in an area is the lowest~~
5 ~~available monthly recurring charge for service to a residential customer, for wireline~~
6 ~~service meeting the requirements of basic telecommunications service, plus the average~~
7 ~~amount spent by customers in that area on per-minute charges for local service.~~

8 ~~(c) Each residential customer residing in a high cost area shall be entitled to a credit~~
9 ~~against the monthly price of basic telecommunications service. The customer's bill shall~~
10 ~~show both the gross amount of service and the amount of the appropriate credit. The~~
11 ~~board shall adopt rules for determining the amount of the appropriate credit.~~

12 ~~(d) Customers in a particular geographic area shall receive equal credits, regardless of~~
13 ~~the carrier they have chosen to provide basic telecommunications service; provided,~~
14 ~~however, that high cost credits shall be available only to customers of carriers that meet~~
15 ~~generally acceptable minimum service quality standards, and any wireline carrier must~~
16 ~~meet minimum service area obligations established by the public service board.~~

17 ~~(e) Credits awarded to customers shall be reimbursed by the fiscal agent from~~
18 ~~universal service charge receipts collected by the fiscal agent. Credits may be awarded in~~
19 ~~the form of a settlement against a carrier's liability for universal service charges.~~

20 ~~Sec. 6. 30 V.S.A. § 7523(b) is amended to read:~~

1 ~~(b) The public service board shall establish a rate of charge under section 7521 of this~~
2 ~~title to meet the funding obligations under this chapter. However, the rate so established~~
3 ~~shall not at any time exceed ~~two~~ five percent of retail telecommunications service, and~~
4 ~~within such five percent rate of charge no more than a two percent universal service~~
5 ~~charge shall be established for purposes authorized by subdivisions (1), (2), (3), and (4)~~
6 ~~of section 7511 of this title. The board's decision shall be entered each year not later than~~
7 ~~June 15. However, if the general assembly does not enact an authorization amount for~~
8 ~~E-911 before May 15, the Board may defer decision until 30 days after the E-911~~
9 ~~authorization is established, and the existing charge rate shall remain in effect until the~~
10 ~~board establishes a new rate.~~

11 Sec. 7. 30 V.S.A. § 7523(c) is added to read:

See P. 13a

12 ~~(c) Universal service charges imposed and collected by the fiscal agent under this~~
13 ~~subchapter are private monies, shall not be considered public revenue, and shall not be~~
14 ~~transferred to any public fund or used to support the cost of any activity other than in the~~
15 ~~manner authorized by section 7511 of this title.~~

16 Sec. 8. 30 V.S.A. § 7524 is amended to read:

17 § 7524. PAYMENT TO FISCAL AGENT

18 (a) Telecommunications service providers shall pay to the fiscal agent all universal
19 service charge receipts collected from customers. ~~The public service board shall~~
20 ~~establish, upon hearing, a cap on universal service charges imposed under this subchapter~~

(c) Universal service charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by section 7511 of this title.

1 ~~so that a customer's average annual universal service charge payments per line or line~~
2 ~~equivalent does not exceed the charges expected to be paid by the line or line equivalents~~
3 ~~representing the 95th percentile of such payments. The fiscal agent shall, as directed by~~
4 ~~the public service board, develop mechanisms to implement this cap, which may include~~
5 ~~an annual refund mechanism administered upon application of affected customers. The~~
6 ~~public service board may amend such cap and adjustment mechanism from time to time.~~
7 A report in a form approved by the public service board shall be included with each
8 payment.

9 (b) Payments shall be made monthly, by the 15th day of the month, and shall be based
10 upon amounts collected in the preceding month. ~~However,~~ ^{If the amount is small} the board may allow payment
11 ~~of smaller amounts~~ to be made less frequently, and may permit payment on an accrual
12 basis.

13 (c) Telecommunications service providers shall maintain records adequate to
14 demonstrate compliance with the requirements of this chapter. The board or the fiscal
15 agent may examine those records in a reasonable manner. ~~Payments shall be made~~
16 ~~monthly, by the 15th day of the month, and shall be based upon amounts collected in the~~
17 ~~preceding month.~~

18 ~~(b)~~ (d) When a payment is due under this section by a telecommunications service
19 provider who has provided customer credits under the lifeline program, the amount due
20 may be reduced by the amount of credit granted. ~~At a frequency determined by the public~~

1 ~~service board, but at least annually, a general settlement shall be made between each~~
2 ~~telecommunications service provider and the fiscal agent.~~

3 Sec. 9. REAUTHORIZATION OF E-911 LAWS

4 Sec. 10 of Act No. 197 of the Acts of 1994 is amended to read:

5 Sec. 10. SUNSET PROVISIONS

6 ~~Sec. 1 and 2 of this act, relating to enhanced 911, except 30 V.S.A. §§ 7059, 7060, and~~
7 ~~7061(b) are repealed on July 1, 1996. Subchapter 3 of chapter 87 88 of Title 30~~
8 ~~(universal service charge) is repealed on July 1, 1998.~~

9 *See P. 15a for Sec. 9a*

9 Sec. 10. 30 V.S.A. § 7051(7) is amended to read:

10 (7) "Enhanced 911 system" and "enhanced 911 services" mean a system
11 consisting of selective routing with the capability of automatic number and location
12 identification at a public safety answering point, network circuits, data bases and
13 answering equipment, which enables a user of the public telecommunications system to
14 request emergency services by dialing the digits 911 and provides the capability to
15 automatically display the name of an individual, unless otherwise requested by such
16 individual in accordance with rules adopted by the board, and the address, and telephone
17 number of incoming 911 calls at the appropriate public safety answering point.

18 *See P. 15b*
~~Sec. 11. 30 V.S.A. § 7056(e) is added to read:~~

19 ~~(e) Upon the request of an individual, any municipality participating in the enhanced~~
20 ~~911 system shall not assign the name of such individual to any standardized locatable~~

Sec. 9a. E-911 STATUS REPORTS

During 1996 and 1997 the E-911 board shall report to the general assembly on or before the 15th day of July and January with a status report on the E-911 system. The report shall include the following information, and such other information as the board determines may be useful in describing how the board is developing and implementing the E-911 system in accordance with the intent of the legislature in authorizing the E-911 system:

(1) the status of any contract negotiations and implementation of executed contracts, including a description of the details of any significant contract;

(2) a current estimate of expenditures for the current and next succeeding fiscal years;

(3) an assessment of total system reliability;

(4) the status of anticipated and actual primary and secondary public safety answering points;

(5) the status of the E-911 data base, including a description of the measures taken to ensure the privacy and reliability of the information in the data base.

Sec. 11. 30 V.S.A. § 7059(d) is added to read:

(d) If a municipality has adopted conventional street addressing for enhanced 911 addressing purposes, the municipality shall ensure that an individual who so requests will not have his or her street address and name linked in a municipal public record, but the individual shall be required to provide a mailing address. The request required by this subsection shall be in writing and shall be filed with the municipal clerk. Requests under this subsection shall be confidential. A form shall be prepared by the board and made generally available to the public by which the confidentiality option established by this subsection may be exercised.

1 ~~address.~~

2 * * * Energy * * *

3 Sec. 12. 30 V.S.A. § 20(b)(9) is added to read:

4 (b) Proceedings for which additional personnel may be retained are:

5 * * *

6 (9) proceedings at the Federal Energy Regulatory Commission which involve
7 Vermont utilities or which may affect the interests of the state of Vermont. Costs under
8 this subdivision shall be charged to the involved electric or natural gas companies
9 pursuant to section 21(a) of this title. In cases where the proceeding is generic in nature
10 the costs shall be allocated to electric or natural gas companies ~~by the public service~~
11 board in proportion to the benefits sought for the customers of such companies from such
12 advocacy. *See P. 16a*

13 Sec. 13. SUNSET OF FERC BILLBACK AUTHORITY

14 ¹²
14 Sec. ~~13~~ shall be repealed on July 1, 2000.

15 ~~Sec. 14. 30 V.S.A. § 218(d) is added to read:~~

16 ~~(d)(1) Notwithstanding subsection (a) of this section, at the request of any natural gas~~
17 ~~or electric company, or the department of public service, or on its own initiative, the~~
18 ~~public service board may issue an order establishing or modifying an energy assurance~~
19 ~~program for any natural gas or electric company if the board finds such programs to be in~~
20 ~~the general good of the state. Under an energy assurance program, the public service~~

The Public Service Board and the Department of Public Service shall report quarterly to the Joint Fiscal Committee all costs incurred and expenditures charged under the authority of this subsection, and the purpose for which such costs were incurred and expenditures made.

1 ~~board may set rates that take into consideration the financial circumstances of low income~~
2 ~~customers and those customers' ability to afford electric and natural gas services.~~

3 ~~(2) For purposes of this section, the term "low income customer" shall mean all~~
4 ~~persons participating in public assistance programs administered by the department of~~
5 ~~social welfare and all persons who meet the criteria of subdivision (c)(3) of this section.~~

6 Sec. 15. REPORTS REQUIRED

7 ~~On or before January 1, 1997 the board shall report to the general assembly~~
8 ~~describing any petitions relating to energy assurance programs, and any orders of the~~
9 ~~board establishing such programs. On or before January 1, 1998 the board shall report to~~
10 ~~the general assembly describing any additional petitions for energy assurance programs~~
11 ~~filed since its preceding report, and providing an analysis of the operation and effect of~~
12 ~~the programs on customers. In describing and analyzing each energy assurance program~~
13 ~~the board shall identify and explain the amount and rate of subsidies used in each~~
14 ~~program, the customer classes affected by such subsidies, the benefits to customers and~~
15 ~~others as a result of each program, and the costs to customers and others as a result of~~
16 ~~each program.~~

17 Sec. 16. 30 V.S.A. § 218d is added to read:

18 § 218d. INCENTIVE REGULATION OF NATURAL GAS AND ELECTRIC

19 UTILITIES

20 ~~(a) Upon petition of a natural gas or electric utility, upon request of the department of~~

1 ~~public service, or on its own initiative, the public service board may approve alternative~~
2 ~~forms of regulation other than the traditional methods based upon cost of service, rate~~
3 ~~base and rate of return. Any petition filed by a natural gas or electric utility under this~~
4 ~~section shall affirmatively establish that the alternative form of regulation being~~
5 ~~considered will not unduly affect the availability, cost, or quality of regulated utility~~
6 ~~services provided to the utility's regulated customers.~~

7 (b) As used in this section:

8 (1) "Alternative forms of regulation" include, but are not limited to, performance-
9 based regulation, incentive regulation, earnings sharing, categorization of services for the
10 purpose of pricing, price caps, price indexing formulae, ranges of authorized returns, and
11 reduction or suspension of regulatory requirements.

12 (2) "Natural gas or electric utility" shall mean any company subject to the
13 jurisdiction of the public service board under section 203(1) or (2) of this title.

14 (c) The board shall approve alternative forms of regulation only if it finds, after
15 notice and hearing, that such regulation, in its entirety:

16 (1) will promote the general good of the state;

17 (2) for an electric utility, is consistent with the state electrical energy plan
18 established under section 202 of this title;

19 (3) is consistent with and provides active encouragement towards attaining the
20 state energy policy under section 202a of this title;

1 ~~(4) will produce fair, just, and reasonable rates for all ratepayers, consistent with~~
2 ~~the provisions of subsection 218(a) of this title;~~

3 ~~(5) is consistent with the company's approved least-cost integrated plan under~~
4 ~~section 218c of this title or, in the absence of an approved plan, is consistent with the~~
5 ~~least-cost planning principles established in subsection (a) of section 218c of this title;~~

6 ~~(6) is designed and is likely to produce lower energy costs for consumers;~~

7 ~~(7) will provide incentives for the utility to improve efficiency and productivity;~~

8 ~~(8) will foster the long-term production and delivery of electricity or natural gas~~
9 ~~in a manner that will improve the choices of service;~~

10 ~~(9) except as may be authorized in an energy assurance program under section~~
11 ~~218(d) of this title, will not result in cross-subsidization among or between groups of~~
12 ~~utility customers, or between the portion of the utility's business or operations subject to~~
13 ~~the alternative form of regulation and any unregulated portion of the utility's business or~~
14 ~~operations;~~

15 ~~(10) is consistent with maintenance of safe, adequate and reliable service and will~~
16 ~~maintain or improve preexisting service quality and consumer protection safeguards; and~~

17 ~~(11) reasonably supports economic activity in the economy of the affected service~~
18 ~~territory.~~

19 ~~(d) Prior to approving or modifying an alternative form of regulation with respect to~~
20 ~~a specific natural gas or electric utility, the board shall establish, and may amend from~~

1 ~~time to time, standards and procedures by which the effectiveness of the alternative form~~
2 of regulation can be determined. The procedures shall include a mechanism for the board
3 and department to monitor and review the alternative form of regulation on a periodic
4 basis over its term and to take appropriate actions if it is found that the alternative form of
5 regulation is not achieving its intended results. The board shall also require as a
6 condition of approval that the natural gas or electric utility continue to provide
7 information by and regarding unregulated affiliates and activities.

8 (e) In reviewing a petition to approve alternative forms of regulation, the board shall
9 follow procedures substantially similar to those contained in sections 225, 226 and 227 of
10 this title, except that if the board has not acted on the petition within nine months after the
11 board has ordered suspension and investigation, the petition shall be deemed granted. By
12 rule, the board may prescribe the minimum contents of a filing under this section.

13 (f) Where a petition for alternative forms of regulation has been filed by the
14 department or a natural gas or electric utility, and the board determines that the proposal
15 does not satisfy the requirements of this section, it may either reject the proposal or issue
16 a proposed order approving alternative regulation with such modifications as the board
17 determines necessary to satisfy the requirements of this section. Within 20 days after
18 issuance of a proposed order under this section, any party may submit comments and may
19 offer to provide additional evidence concerning the proposed order. After review of such
20 ~~comments, and after conducting any additional hearings that the board determines to be~~

1 ~~necessary, the board shall issue a final order with such modifications as the board~~
2 determines to be necessary to satisfy the requirements of this section. If the board
3 determines that additional evidence offered by a party should have been introduced at
4 hearings prior to the proposed order, the board may exclude such evidence. The board
5 shall issue its final order within 45 days after the proposed order is issued, or within 90
6 days after the proposed order is issued if further hearings have been held.

7 (g) Any order instituting alternative forms of regulation shall, by its terms, take effect
8 not sooner than 30 days following its issuance.

9 (h) An order establishing an alternative form of regulation may include:

10 (1) exemption from, reduction of, or alternatives to the requirements of sections
11 218(a), 225, 226 and 227 of this title, including rate of return requirements;

12 (2) terms and conditions for establishing new services, withdrawing services,
13 price changes to services, and services by contract to individual customers;

14 (3) terms and conditions relating to structural or nonstructural safeguards
15 necessary to achieve the purposes of this section; and

16 (4) other rates, terms, and conditions that the board finds to be consistent with the
17 general considerations and standards under subsections (c) and (d) of this section.

18 (i) An order establishing an alternative form of regulation shall not include the
19 reduction or suspension of the regulatory requirements of section 249 of this title, or the
20 suspension or reduction of any other statutory or regulatory requirements of this title for

1 ~~the purpose of permitting the competitive purchase and sale of electricity in this state.~~

2 (j) While an order approving alternative forms of regulation is in effect, on its own
3 initiative the public service board may, or if requested by the department of public
4 service, the public service board shall conduct investigations into the effectiveness of the
5 alternative forms of regulation and whether a traditional form of regulation should be
6 restored. Following notice and an opportunity for hearing, the public service board may
7 terminate an order establishing an alternative form of regulation and restore a traditional
8 form of regulation, or it may modify the order approving alternative forms of regulation.
9 Where the board revokes prior approval of an alternative form of regulation, the board
10 shall determine that the current rates for the related products or services are just and
11 reasonable or shall establish new rates that are just and reasonable either upon revocation
12 or by commencing an investigation into the company's rates under section 227(b) of this
13 title.

14 (k) If at any time an order establishing an alternative form of regulation has been in
15 effect for 48 months without having been renewed, the order shall be deemed of no
16 further force or effect and the waiver of statutory requirements under this title shall
17 expire. All tariffs then in effect shall remain in effect until further order of the board.

18 Sec. 17. 30 V.S.A. § 227(a) is amended to read:

19 (a) If the board orders that a change shall not go into effect until final determination
20 of the proceedings, it shall proceed to hear the matter as promptly as possible and shall

1 make its determination within seven months from the date that the change otherwise
2 would have gone into effect. If a company files for a change in rate design among classes
3 of ratepayers, and the company has a rate case pending before the board, the board shall
4 make its determination on the rate design change within seven months after the rate case
5 is decided by the board. If the board fails to make its determination within ~~such time the~~
6 time periods set by this subsection, the changed rate schedules filed by the company shall
7 become effective and final.

8 Sec. 18. 30 V.S.A. § 249a is added to read:

9 § 249a. CAMPGROUND SUBMETERING

10 Notwithstanding the provisions of section 249 of this title or any other provision of
11 this title, a person operating a recreational campground may provide submetered electric
12 service to campground users on a nonprofit basis, if such service is provided in
13 accordance with rules adopted by the board, including rules relating to notice of rates and
14 charges, accuracy of electrical submeters, and reasonable billing and complaint
15 procedures.

16 ~~Sec. 19. REAUTHORIZATION OF WEATHERIZATION GROSS RECEIPTS TAX~~

17 Notwithstanding Sec. 3 of No. 230 of the Acts of the 1993 Adjourned Session (1994),
18 or any other provision of law, the fuel gross receipts tax imposed by 33 V.S.A. § 2503
19 shall remain in effect beyond June 30, 1996 unless amended or repealed by a further act
20 of the General Assembly.

*** * * Gross Receipts Tax Rates; July 1, 1996 to June 30, 1998 * * ***

Sec. 24. 30 V.S.A. § 22(a)(1), (2), and (6) are amended to read:

(1) For companies, cooperative, municipal or privately owned, generating, distributing, selling or transmitting electric energy, ~~.0045~~ .0050 of gross operating revenue;

(2) For telephone companies, ~~.0045~~ .0050 of gross operating revenue, or \$100.00, whichever is greater;

(6) For companies whose sole telephone business consists of owning customer-owned, coin-operated telephones with total annual revenues of less than \$5,000.00, the choice of either ~~.0045~~ .0050 of gross operating revenue from telephone revenues or the amount of \$20.00;

*** * * Gross Receipts Tax Rates; July 1, 1998 and thereafter * * ***

Sec. 24a. 30 V.S.A. § 22(a)(1), (2), and (6) are amended to read:

(1) For companies, cooperative, municipal or privately owned, generating, distributing, selling or transmitting electric energy, ~~.0050~~ .0045 of gross operating revenue;

(2) For telephone companies, ~~.0050~~ .0045 of gross operating revenue, or \$100.00, whichever is greater;

(6) *For companies whose sole telephone business consists of owning customer-owned, coin-operated telephones with total annual revenues of less than \$5,000.00, the choice of either ~~.0050~~ .0045 of gross operating revenue from telephone revenues or the amount of \$20.00;*

Sec. 24b. REGULATORY EXPENSES RELATING TO REGULATED UTILITIES

The public service board and the department of public service shall work to ensure that the regulatory expenses of regulated utilities are not subsidized by the customers of other regulated utilities.

1 least every five years for efficiency and effectiveness in carrying out the public service
2 policies and goals of this state. Copies of the report shall be sent to the members of the
3 house committee on ways and means, the house committee on commerce, and the senate
4 committee on finance.

See P. 26a for Secs. 26 + 26a

~~5 Sec. 26. 32 V.S.A. § 1012 is amended to read:~~

6 § 1012. PUBLIC SERVICE BOARD

7 The annual salary and retirement benefits of the chairperson of the public service
8 board shall be the same as fixed for each superior court judge. The annual salary of each
9 of the other members of the public service board, each of whom shall serve on a
part-time basis
10 ~~basis~~, shall be equal to ~~50 percent~~ two-thirds of that of the chairperson. The annual salary
11 of the clerk of such board shall be fixed by the board with the approval of the governor.

12 Sec. 27. POSITION AUTHORIZED

13 One (1) exempt position - utility analyst is authorized in fiscal year
In fiscal year 1997 a new exempt position - utility analyst - is authorized within the
14 1997 which shall be transferred and converted from existing vacant positions in the
public service board.
15 executive branch of state government by the secretary of administration.

16 ~~Sec. 28. EFFECTIVE DATE~~

See P. 26b for Secs. 27a + 28

17 This act shall take effect on passage, except that Sec. 22 (minimum gross revenue tax
18 for telecommunications companies), Sec. 23 (gross receipts tax for gas companies), and
19 Secs. 26 and 27 (public service board members and staff) shall take effect on July 1,
1996.

*** * * Compensation of Public Service Board Members;
from passage to June 30, 1998 * * ***

Sec. 26. 32 V.S.A. § 1012 is amended to read:

§ 1012. PUBLIC SERVICE BOARD

The annual salary of the chairperson of the public service board shall be the same as fixed for each superior court judge. The annual salary of each of the other members of the public service board, each of whom shall serve on a part-time basis, shall be equal to ~~50 percent~~ two-thirds of that of the chairperson. The annual salary of the clerk of such board shall be fixed by the board with the approval of the governor.

*** * * Compensation of Public Service Board Members;
July 1, 1998 and thereafter * * ***

Sec. 26a. 32 V.S.A. § 1012 is amended to read:

§ 1012. PUBLIC SERVICE BOARD

The annual salary of the chairperson of the public service board shall be the same as fixed for each superior court judge. The annual salary of each of the other members of the public service board, each of whom shall serve on a part-time basis, shall be equal to ~~two-thirds~~ 50 percent of that of the chairperson. The annual salary of the clerk of such board shall be fixed by the board with the approval of the governor.

H. 792

p. 3

SENATE CHAMBER

4/3/96

READ AND REFERRED TO

Senate

COMMITTEE

Finance

ASSISTANT - SECRETARY

SENATE CHAMBER

4/23 96

ENTERED ON CALENDAR FOR NOTICE

ASSISTANT - SECRETARY

SENATE CHAMBER

4/23 96

The Bill being on the calendar for notice and carrying an appropriation, under the Rule, was referred to the Committee on Appropriations.

ASSISTANT - SECRETARY

SENATE CHAMBER

4/25 96

ENTERED ON CALENDAR FOR NOTICE

ASSISTANT - SECRETARY

SENATE CHAMBER

4/25 19 96

ON MOTION OF SEN. Coar THE RULES WERE SUSPENDED AND THE BILL WAS TAKEN UP FOR IMMEDIATE CONSIDERATION.

Assistant - Secretary

SENATE CHAMBER

4/25 19 96

reported favorably with Recommendation(s) Proposal(s) of Amendment read the second time, and thereupon the Recommendation(s) Proposal(s) of Amendment was/were agreed to and Third Reading ordered. Thereupon, Sen Coar moved to amend the bill, which was agreed to

Thereupon, 3rd reading was ordered.

Assistant - Secretary

HOUSE OF REPRESENTATIVES,

ENTERED ON THE CALENDAR FOR NOTICE.

FIRST ASS'T CLERK

The bill, appearing on the calendar for notice, was taken up under suspension of the rules, as moved by Mr. Fox

of Enck

HOUSE OF REPRESENTATIVES

4/26 19 96

SEN. PROP. OF AMEND. CONSIDERED & PENDING Q. WILL THE H. CONCUR IN SEN. PROP. OF AMEND? MR. Berke of Burlington

MOVED H. REFUSE TO CONCUR & ASK FOR C. OF CONF., WHICH WAS AGREED TO. THEREUPON, SPEAKER APPTD. AS MEMBERS OF C. OF CONF. ON PART OF H:

Kemen of St. Albans City

Malkey of Brattleboro

Young of Orwell

W. H. Fox

FIRST ASST. CLERK

House of Representatives

4/26 19 96

UPON MOTION OF MR. Fox

THE RULES WERE SUSPENDED AND THE BILL WAS ORDERED MESSAGED TO THE SENATE FORTHWITH.

W. H. Fox

FIRST ASSISTANT CLERK

SENATE CHAMBER

4/26 19 96

Pursuant to the request of the House, the President appointed as members of the Committee of Conference on the part of the Senate:

Senator Webster

Coar

Sherrin

Assistant - Secretary

SENATE CHAMBER

5/3 19 96

ON MOTION OF SEN. Doyle THE RULES WERE SUSPENDED AND THE BILL WAS TAKEN UP FOR IMMEDIATE CONSIDERATION.

Assistant - Secretary

SENATE CHAMBER

5/3 19 96

Taken up and the pending question "Shall the Senate accept and adopt the report of the Committee of Conference" was decided in the affirmative

Assistant - Secretary

SENATE CHAMBER

5/3 19 96

UPON MOTION OF SEN. Doyle THE RULES WERE SUSPENDED AND THE BILL WAS ORDERED MESSAGED TO THE HOUSE FORTHWITH.

Assistant - Secretary

5/3/96

HOUSE OF REPRESENTATIVES

Pending entry of the bill on the calendar for notice, the rules were suspended, on motion of Mr. Fox of Enck and the bill was taken up for immediate consideration.

HOUSE OF REPRESENTATIVES

19

REPORT OF C. OF CONF. CONSIDERED & ADPTD. ON PART OF HOUSE.

FIRST ASST. CLERK

HOUSE OF REPRESENTATIVES

19

UPON MOTION OF MR. Fox OF ENCK THE RULES WERE SUSP. & THE BILL WAS ORDERED MESSAGED TO THE SEN. FORTHWITH & BILLS OF HONOR. FORTHWITH.

FIRST ASST. CLERK