

1 H.718

2 Introduced by Representatives Botzow of Pownal, Kitzmiller of Montpelier,

3 Russell of Rutland City, Scheuermann of Stowe, Shand of

4 Weathersfield and Young of Glover

5 Referred to Committee on

6 Date:

7 Subject: Utilities; commercial building energy standards; energy planning;

8 electronic case filing and management; universal service fund

9 Statement of purpose: This bill proposes to make miscellaneous amendments
10 to matters within the jurisdiction of the department of public service and the
11 public service board.

12 An act relating to the department of public service and the public service
13 board

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

15 * * * Effective Date of the CBES * * *

16 Sec. 1. 21 V.S.A. § 268 is amended to read:

17 § 268. COMMERCIAL BUILDING ENERGY STANDARDS

18 * * *

19 (c) Revision and interpretation of energy standards. No later than

20 January 1, 2011, the commissioner shall complete rulemaking to amend the

1 commercial building energy standards to ensure that commercial building
2 construction must be designed and constructed in a manner that complies with
3 ANSI/ASHRAE/IESNA standard 90.1-2007 or the 2009 edition of the IECC,
4 whichever provides the greatest level of energy savings. These amendments
5 shall be effective ~~three months~~ one year after final adoption and shall apply to
6 construction commenced on and after the date they become effective. At least
7 every three years after January 1, 2011, the commissioner of public service
8 shall amend and update the CBES by means of administrative rules adopted in
9 accordance with 3 V.S.A. chapter 25. The commissioner shall ensure that
10 appropriate revisions are made promptly after the issuance of updated
11 standards for commercial construction under the IECC or
12 ASHRAE/ANSI/IESNA standard 90.1, whichever provides the greatest level
13 of energy savings. Prior to final adoption of each required revision of the
14 CBES, the department of public service shall convene an advisory committee
15 to include one or more mortgage lenders; builders; building designers;
16 architects; civil, mechanical, and electrical engineers; utility representatives;
17 and other persons with experience and expertise, such as consumer advocates
18 and energy conservation experts. The advisory committee may provide the
19 commissioner of public service with additional recommendations for revision
20 of the CBES.

21

* * *

1 * * * Coordination of Energy Planning * * *

2 Sec. 3. 30 V.S.A. § 202 is amended to read:

3 § 202. ELECTRICAL ENERGY PLANNING

4 (a) The department of public service, through the director for regulated
5 utility planning, shall constitute the responsible utility planning agency of the
6 state for the purpose of obtaining for all consumers in the state proper utility
7 service at minimum cost under efficient and economical management
8 consistent with other public policy of the state. The director shall be
9 responsible for the provision of plans for meeting emerging trends related to
10 electrical energy demand, supply, safety and conservation.

11 (b) The department, through the director, shall prepare an electrical energy
12 plan for the state. The plan shall be for a 20-year period and shall serve as a
13 basis for state electrical energy policy. The electric energy plan shall be based
14 on the principles of “least cost integrated planning” set out in and developed
15 under section 218c of this title. The plan shall include at a minimum:

16 (1) an overview, looking 20 years ahead, of statewide growth and
17 development as they relate to future requirements for electrical energy,
18 including patterns of urban expansion, statewide and service area economic
19 growth, shifts in transportation modes, modifications in housing types and
20 design, conservation and other trends and factors which, as determined by the
21 director, will significantly affect state electrical energy policy and programs;

1 (2) an assessment of all energy resources available to the state for
2 electrical generation or to supply electrical power, including among others,
3 fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy
4 and strategies for minimizing the economic and environmental costs of energy
5 supply, including the production of pollutants, by means of efficiency and
6 emission improvements, fuel shifting, and other appropriate means;

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

8 (4) a detailed exposition, including capital requirements and the
9 estimated cost to consumers, of how such demand shall be met based on the
10 assumptions made in subdivision (1) of this subsection and the policies set out
11 in subsection (c) of this section; and

12 (5) specific strategies for reducing electric rates to the greatest extent
13 possible in Vermont over the most immediate ~~five-year~~ six-year period, for the
14 next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies
15 for achieving and maintaining the lowest possible electric rates over the full
16 20-year planning horizon consistent with the goal of maintaining a financially
17 stable electric utility industry in Vermont.

18 (c) In developing the plan, the department shall take into account the
19 protection of public health and safety; preservation of environmental quality;
20 the potential for reduction of rates paid by all retail electricity customers; the
21 potential for reduction of electrical demand through conservation, including

1 alternative utility rate structures; use of load management technologies;
2 efficiency of electrical usage; utilization of waste heat from generation; and
3 utility assistance to consumers in energy conservation.

4 (d) In establishing plans, the director shall:

5 (1) Consult with:

6 (A) the public;

7 (B) Vermont municipal utilities;

8 (C) Vermont cooperative utilities;

9 (D) Vermont investor-owned utilities;

10 (E) Vermont electric transmission companies;

11 (F) environmental and residential consumer advocacy groups active

12 in electricity issues;

13 (G) industrial customer representatives;

14 (H) commercial customer representatives;

15 (I) the public service board;

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

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

18 (K) other interested state agencies; and

19 (L) other energy providers.

20 (2) To the extent necessary, include in the plan surveys to determine

21 needed and desirable plant improvements and extensions and coordination

1 between utility systems, joint construction of facilities by two or more utilities,
2 methods of operations, and any change that will produce better service or
3 reduce costs. To this end, the director may require the submission of data by
4 each company subject to supervision, of its anticipated electrical demand,
5 including load fluctuation, supplies, costs, and its plan to meet that demand and
6 such other information as the director deems desirable.

7 (e) The department shall conduct public hearings on the final draft and
8 shall consider the evidence presented at such hearings in preparing the final
9 plan. The plan shall be adopted no later than January 1, ~~2004~~ 2012 and
10 readopted in accordance with this section by every sixth January 1 thereafter,
11 and shall be submitted to the general assembly each time the plan is adopted or
12 readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports)
13 shall not apply to the submission to be made under this subsection.

14 (f) After adoption by the department of a final plan, any company seeking
15 board authority to make investments, to finance, to site or construct a
16 generation or transmission facility or to purchase electricity or rights to future
17 electricity, shall notify the department of the proposed action and request a
18 determination by the department whether the proposed action is consistent with
19 the plan. In its determination whether to permit the proposed action, the board
20 shall consider the department's determination of its consistency with the plan
21 along with all other factors required by law or relevant to the board's decision

1 on the proposed action. If the proposed action is inconsistent with the plan, the
2 board may nevertheless authorize the proposed action if it finds that there is
3 good cause to do so. The department shall be a party to any proceeding on the
4 proposed action, except that this section shall not be construed to require a
5 hearing if not otherwise required by law.

6 (g) The director shall annually review that portion of a plan extending over
7 the next ~~five~~ six years. The department, through the director, shall ~~annually~~
8 biennially extend the plan by ~~one~~ two additional ~~year~~ years; and from time to
9 time, ~~but in no~~ and in any event ~~less than~~ every ~~five years~~ sixth year, institute
10 proceedings to review a plan and make revisions, where necessary. The
11 ~~five-year~~ six-year review and any interim revisions shall be made according to
12 the procedures established in this section for initial adoption of the plan. The
13 six-year review and any revisions made in connection with that review shall be
14 performed contemporaneously with readoption of the comprehensive energy
15 plan under section 202b of this title.

16 (h) The plans adopted under this section ~~shall be submitted to the energy~~
17 ~~committees of the general assembly and~~ shall become the electrical energy
18 portion of the state energy plan.

19 (i) It shall be a goal of the electrical energy plan to assure, by 2028, that at
20 least 60 MW of power are generated within the state by combined heat and
21 power (CHP) facilities powered by renewable fuels or by nonqualifying

1 SPEED resources, as defined in section 8002 of this title. In order to meet this
2 goal, the plan shall include incentives for development and strategies to
3 identify locations in the state that would be suitable for CHP. The plan shall
4 include strategies to assure the consideration of CHP potential during any
5 process related to the expansion of natural gas services in the state.

6 Sec. 4. 30 V.S.A. § 202b is amended to read:

7 § 202b. STATE COMPREHENSIVE ENERGY PLAN

8 (a) The department of public service, in conjunction with other state
9 agencies designated by the governor, shall prepare a comprehensive state
10 energy plan covering at least a 20-year period. The plan shall seek to
11 implement the state energy policy set forth in section 202a of this title. The
12 plan shall include:

13 (1) A comprehensive analysis and projections regarding the use, cost,
14 supply and environmental effects of all forms of energy resources used within
15 Vermont.

16 (2) Recommendations for state implementation actions, regulation,
17 legislation, and other public and private action to carry out the comprehensive
18 energy plan.

19 (b) In developing or updating the plan's recommendations, the department
20 of public service shall seek public comment by holding public hearings in at
21 least five different geographic regions of the state on at least three different

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

7 (c) The department shall adopt a state energy plan by ~~no later than~~ January
8 1, ~~1994~~ 2012 and shall readopt the plan by every sixth January 1 thereafter.
9 On adoption or readoption, the plan shall be submitted to the general assembly.
10 The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not
11 apply to such submission.

12 (1) Upon adoption of the plan, analytical portions of the plan may be
13 updated ~~annually~~ and published biennially.

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

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

20 (4) The plan's implementation recommendations shall be updated by the
21 department no less frequently than every ~~five~~ six years. These

1 recommendations shall be updated prior to the expiration of ~~five~~ six years if
2 the general assembly passes a joint resolution making a request to that effect. If
3 the department proposes or the general assembly requests the revision of
4 implementation recommendations, the department shall hold public hearings
5 on the proposed revisions.

6 (d) ~~Any distribution~~ Distribution of the plan to members of the general
7 assembly shall be in accordance with the provisions of 2 V.S.A. § 20 ~~(a)–(c)~~.

8 Sec. 5. INTENT; RETROACTIVE APPLICATION

9 In enacting Secs. 3 (20-year electric plan) and 4 (comprehensive energy
10 plan), the general assembly intends to set the readoption of these plans by the
11 department of public service (the department) on a regular six-year cycle
12 beginning with the comprehensive energy plan adopted by the department in
13 December 2011. The department's adoption of that plan in December 2011
14 shall be deemed to satisfy the requirements of 30 V.S.A. §§ 202 and 202b, as
15 amended by Secs. 3 and 4 of this act, to adopt plans by January 1, 2012.

16 Sec. 6. 21 V.S.A. § 269 is amended to read:

17 § 269. COMPLIANCE PLAN

18 The commissioner of public service shall perform all of the following:

19 (1) No later than September 1, 2011, issue a plan for achieving
20 compliance with the energy standards adopted under this subchapter no later
21 than February 1, 2017 in at least 90 percent of new and renovated residential

1 and commercial building space. In preparing this plan, the department shall
2 review enforcement mechanisms for building energy codes that have been
3 adopted in other jurisdictions and shall solicit the comments and
4 recommendations of one or more mortgage lenders; builders; building
5 designers; architects; civil, mechanical, and electrical engineers; utility
6 representatives; environmental organizations; consumer advocates; energy
7 efficiency experts; the attorney general; and other persons who are potentially
8 affected or have relevant expertise.

9 (2) No later than ~~June 30, 2012~~ December 31, 2013, by means of
10 administrative rules adopted in accordance with 3 V.S.A. chapter 25:

11 (A) Establish active training and enforcement programs to meet the
12 energy standards adopted under this subchapter.

13 (B) Establish a system for measuring the rate of compliance each
14 year with the energy standards adopted under this chapter. Following
15 establishment of this system, the commissioner also shall provide for such
16 annual measurement.

17 * * * Electronic Filings and Case Management * * *

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

19 (a) The forms, pleadings, and rules of practice and procedure before the
20 board shall be prescribed by it. The board shall promulgate and adopt rules
21 which include, among other things, provisions that:

1 (A) the transmission by electronic means of a document that the
2 board has issued, including an order, proposal for decision, or notice; or

3 (B) the transmission of a message from the board by electronic
4 means informing the recipients that the board has issued a document, including
5 an order, proposal for decision, or notice, and that it is available for viewing
6 and retrieval from an electronic filing system.

7 (5) “Electronic means” means any board-authorized method of
8 electronic transmission of a document.

9 (b) The board by order, rule, procedure, or practice may:

10 (1) provide for electronic issuance of any notice, order, proposal for
11 decision, or other process issued by the board, notwithstanding any other
12 service requirements set forth in this title or in 10 V.S.A. chapter 43;

13 (2) require electronic filing of documents with the board;

14 (3) for any filing or submittal to the board for which the filing or
15 submitting entity is required to provide notice or a copy to another state agency
16 under this title or under 10 V.S.A. chapter 43, waive such requirement if the
17 state agency will receive notice of and access to the filing or submittal through
18 an electronic filing system; and

19 (4) for any filing, order, proposal for decision, notice, or other process
20 required to be served or delivered by first-class mail or personal delivery under
21 this title or under 10 V.S.A. chapter 43, waive such requirement to the extent

1 the required recipients will receive the filing, order, proposal of decision,
2 notice, or other process by electronic means or will receive notice of and
3 access to the filing, order, proposal for decision, notice, or other process
4 through an electronic filing system.

5 (c) Any order, rule, procedure, or practice issued under subsection (b) of
6 this section shall include exceptions to accommodate parties and other
7 participants who are unable to file or receive documents by electronic means.

8 (d) Subsection (b) of this section shall not apply to the requirements for
9 service of citations and notices in writing as set forth in 30 V.S.A. §§ 111(b),
10 111a(i), and 2804.

11 Sec. 9. 30 V.S.A. § 20(a) is amended to read:

12 (a)(1) The board or department may authorize or retain legal counsel,
13 ~~official stenographers~~, expert witnesses, advisors, temporary employees, and
14 other research services:

15 * * *

16 (4) The board or department may authorize or retain official
17 stenographers in any proceeding within their jurisdiction, including
18 proceedings listed in subsection (b) of this section.

1 * * * Condemnation Hearing: Service of Citation * * *

2 Sec. 10. 30 V.S.A. § 111(b) is amended to read:

3 (b) The citation shall be served upon each person having any legal interest
4 in the property, ~~including each municipality and each planning body where the~~
5 ~~property is situate like a summons~~, or on absent persons in such manner as the
6 supreme court may by rule provide for service of process in civil actions. The
7 board also shall give notice of the hearing to each municipality and each
8 planning body where the property is located. The board, in its discretion, may
9 schedule a joint hearing of some or all petitions relating to the same project
10 and concerning properties or rights located in the same town or abutting towns.

11 * * * Filing Rate Schedules with the Board * * *

12 Sec. 11. 30 V.S.A. § 225 is amended to read:

13 § 225. RATE SCHEDULES

14 (a) Within a time to be fixed by the board, each company subject to the
15 provisions of this chapter shall file with the board and the department, with
16 separate filings to the directors for regulated utility planning and public
17 advocacy, schedules which shall be open to public inspection, showing all rates
18 including joint rates for any service performed or any product furnished by it
19 within the state, and as a part thereof shall file the rules and regulations that in
20 any manner affect the tolls or rates charged or to be charged for any such
21 service or product. Those schedules, or summaries of the schedules approved

1 by the department, shall be published by the company in two newspapers with
2 general circulation in the state within 15 days after such filing. A change shall
3 not thereafter be made in any such schedules, including schedules of joint rates
4 or in any such rules and regulations, except upon 45 days notice to the board
5 and to the department of public service, and such notice to parties affected by
6 such schedules as the board shall direct. The board shall consider the
7 department's recommendation and take action pursuant to sections 226 and
8 227 of this title before the date on which the changed rate is to become
9 effective. All such changes shall be plainly indicated upon existing schedules,
10 or by filing new schedules in lieu thereof 45 days prior to the time the same are
11 to take effect. Subject only to temporary increases, rates may not thereafter be
12 raised without strictly complying with the notice and filing requirements set
13 forth in this section. In no event may a company amend, supplement or alter an
14 existing filing or substantially revise the proof in support of such filing in order
15 to increase, decrease or substantiate a pending rate request, unless, upon
16 opportunity for hearing, the company demonstrates that such a change in filing
17 or proof is necessary for the purpose of providing adequate and efficient
18 service. However, upon application of any company subject to the provisions
19 of this chapter, and with the consent of the department of public service, the
20 board may for good cause shown prescribe a shorter time within which such
21 change may be made; but a change which in effect decreases such tolls or rates

1 may be made upon five days' notice to the board and the department of public
2 service and such notice to parties affected as the board shall direct.

3 * * *

4 * * * CPG: Recommendations of Municipal and Regional Planning

5 Commissions * * *

6 Sec. 12. 30 V.S.A. § 248 is amended to read:

7 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
8 FACILITIES; CERTIFICATE OF PUBLIC GOOD

9 * * *

10 (f) However, the plans for the construction of such a facility within the
11 state must be submitted by the petitioner to the municipality and regional
12 planning commissions no less than 45 days prior to application for a certificate
13 of public good under this section, unless the municipal and regional planning
14 commissions shall waive such requirement. Such municipal or regional
15 planning commission may hold a public hearing on the proposed plans. Such
16 commissions ~~shall~~ may make recommendations, ~~if any,~~ to the public service
17 board and to the petitioner ~~at least seven days prior to filing of the petition~~
18 within 21 days after the date the petition is filed with the public service board.

19 * * *

* * * Universal Service Fund Study * * *

Sec. 13. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST BASIC TELECOMMUNICATIONS SERVICE

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

(b) The commissioner of public service, in conjunction with the public service board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service. The study shall ~~be conducted either as an independent inquiry or as part of a proceeding or docket affecting other matters~~ include an informal workshop process to be conducted by the board. The study shall:

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

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

4 (3) Estimate the relationship between basic telecommunications service
5 charges and opportunities for uniform economic development throughout the
6 state, and the threshold prices beyond which such opportunities may be
7 adversely affected.

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

11 (5) Examine policy options by which the cost to customers may be
12 managed so as not to jeopardize universal service and the uniform economic
13 development opportunities, including at least the following:

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

18 (B) broadening eligibility for the lifeline program; and

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

1 (6) Examine the actions, if any, of the Federal Communications
2 Commission (FCC) in revising its universal service fund, and the need, if any,
3 for additional action in Vermont. In particular, the study shall examine the
4 impact on Vermont services caused by the FCC's report and order released
5 November 18, 2011, which, among other things, expands the federal universal
6 service fund to include broadband deployment in unserved areas.

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

10 (8) Include an audit of the universal service fund to examine, among
11 other things, the contributions made to the fund in terms of the categories of
12 telecommunications service providers covered as well as the specific services
13 charged. In addition, the audit shall assess the disbursements made from the
14 fund.

15 (c) The results of the study, together with any plan for amending and
16 distributing funds under this section, shall be submitted to the ~~general~~
17 ~~assembly~~ house committee on commerce and economic development and the
18 senate committee on finance on or before ~~January 15, 1996~~ December 1, 2012.

19 (d) The department may contract with a consultant to conduct the study
20 required by this section. Costs incurred in conducting the study shall be
21 reimbursed from the state universal service fund up to \$15,000.00.

