

1 H.297

2 Introduced by Representatives Botzow of Pownal, Carr of Brandon, Cross of
3 Winooski, Kitzmiller of Montpelier, Kupersmith of South
4 Burlington, and Marcotte of Coventry

5 Referred to Committee on

6 Date:

7 Subject: Utilities; Department of Public Service; planning; Universal Service
8 Fund; federal proceedings

9 Statement of purpose of bill as introduced: This bill proposes to make various
10 amendments to matters within the jurisdiction of the Department of Public
11 Service, including enhanced coordination of planning; broader application of
12 the Universal Service Fund surcharge; and participation in federal proceedings.

13 An act relating to duties and functions of the Department of Public Service

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

15 * * * Participation in Federal Proceedings * * *

16 Sec. 1. 30 V.S.A. § 2(b) is amended to read:

17 (b) In cases requiring hearings by the ~~board~~ Board, the ~~department~~
18 Department, through the ~~director for public advocacy~~ Director for Public
19 Advocacy, shall represent the interests of the people of the ~~state~~ State, unless
20 otherwise specified by law. In any hearing, the ~~board~~ Board may, if it

1 determines that the public interest would be served, request the ~~attorney~~
2 ~~general~~ Attorney General or a member of the Vermont ~~bar~~ Bar to represent the
3 public or the ~~state~~ State. In addition, the Department may intervene, appear,
4 and participate in Federal Energy Regulatory Commission proceedings,
5 Federal Communications Commission proceedings, or other federal
6 proceedings on behalf of the Vermont public.

7 * * * Coordination of Energy Planning * * *

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

9 § 202. ELECTRICAL ENERGY PLANNING

10 (a) The ~~department of public service~~ Department of Public Service, through
11 the ~~director for regulated utility planning~~ Director for Regulated Utility
12 Planning, shall constitute the responsible utility planning agency of the ~~state~~
13 State for the purpose of obtaining for all consumers in the ~~state~~ State proper
14 utility service at minimum cost under efficient and economical management
15 consistent with other public policy of the ~~state~~ State. The ~~director~~ Director
16 shall be responsible for the provision of plans for meeting emerging trends
17 related to electrical energy demand, supply, safety, and conservation.

18 (b) The ~~department~~ Department, through the ~~director~~ Director, shall prepare
19 an electrical energy plan for the ~~state~~ State. The plan shall be for a 20-year
20 period and shall serve as a basis for state electrical energy policy. The electric
21 energy plan shall be based on the principles of “least cost integrated planning”

1 set out in and developed under section 218c of this title. The plan shall include
2 at a minimum:

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

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

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

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

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

7 (c) In developing the plan, the ~~department~~ Department shall take into
8 account the protection of public health and safety; preservation of
9 environmental quality; the potential for reduction of rates paid by all retail
10 electricity customers; the potential for reduction of electrical demand through
11 conservation, including alternative utility rate structures; use of load
12 management technologies; efficiency of electrical usage; utilization of waste
13 heat from generation; and utility assistance to consumers in energy
14 conservation.

15 (d) In establishing plans, the ~~director~~ Director shall:

16 (1) Consult with:

17 (A) the public;

18 (B) Vermont municipal utilities;

19 (C) Vermont cooperative utilities;

20 (D) Vermont investor-owned utilities;

21 (E) Vermont electric transmission companies;

1 (F) environmental and residential consumer advocacy groups active
2 in electricity issues;

3 (G) industrial customer representatives;

4 (H) commercial customer representatives;

5 (I) the ~~public service board~~ Public Service Board;

6 (J) an entity designated to meet the public's need for energy
7 efficiency services under subdivision 218c(a)(2) of this title;

8 (K) other interested state agencies; and

9 (L) other energy providers.

10 (2) To the extent necessary, include in the plan surveys to determine
11 needed and desirable plant improvements and extensions and coordination
12 between utility systems, joint construction of facilities by two or more utilities,
13 methods of operations, and any change that will produce better service or
14 reduce costs. To this end, the ~~director~~ Director may require the submission of
15 data by each company subject to supervision, of its anticipated electrical
16 demand, including load fluctuation, supplies, costs, and its plan to meet that
17 demand and such other information as the ~~director~~ Director deems desirable.

18 (e) The ~~department~~ Department shall conduct public hearings on the final
19 draft and shall consider the evidence presented at such hearings in preparing
20 the final plan. The plan shall be adopted no later than January 1, ~~2004~~ 2016
21 and readopted in accordance with this section by every sixth January 1

1 thereafter, and shall be submitted to the ~~general assembly~~ General Assembly
2 each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d)
3 (expiration of required reports) shall not apply to the submission to be made
4 under this subsection.

5 (f) After adoption by the ~~department~~ Department of a final plan, any
6 company seeking ~~board~~ Board authority to make investments, to finance, to
7 site or construct a generation or transmission facility or to purchase electricity
8 or rights to future electricity, shall notify the ~~department~~ Department of the
9 proposed action and request a determination by the ~~department~~ Department
10 whether the proposed action is consistent with the plan. In its determination
11 whether to permit the proposed action, the ~~board~~ Board shall consider the
12 ~~department's~~ Department's determination of its consistency with the plan
13 along with all other factors required by law or relevant to the ~~board's~~ Board's
14 decision on the proposed action. If the proposed action is inconsistent with the
15 plan, the ~~board~~ Board may nevertheless authorize the proposed action if it finds
16 that there is good cause to do so. The ~~department~~ Department shall be a party
17 to any proceeding on the proposed action, except that this section shall not be
18 construed to require a hearing if not otherwise required by law.

19 (g) The ~~director~~ Director shall annually review that portion of a plan
20 extending over the next ~~five~~ six years. The ~~department~~ Department, through
21 the ~~director~~ Director, shall ~~annually~~ biennially extend the plan by ~~one~~ two

1 additional ~~year~~ years; and from time to time, ~~but in no~~ and in any event less
2 ~~than~~ every ~~five years~~ sixth year, institute proceedings to review a plan and
3 make revisions, where necessary. The ~~five year~~ six-year review and any
4 interim revisions shall be made according to the procedures established in this
5 section for initial adoption of the plan. The six-year review and any revisions
6 made in connection with that review shall be performed contemporaneously
7 with readoption of the comprehensive energy plan under section 202b of this
8 title.

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

12 (i) It shall be a goal of the electrical energy plan to assure, by 2028, that at
13 least 60 MW of power are generated within the ~~state~~ State by combined heat
14 and power (CHP) facilities powered by renewable fuels ~~or by nonqualifying~~
15 ~~SPEED resources~~, as defined in section 8002 of this title. In order to meet this
16 goal, the plan shall include incentives for development and strategies to
17 identify locations in the ~~state~~ State that would be suitable for CHP. The plan
18 shall include strategies to assure the consideration of CHP potential during any
19 process related to the expansion of natural gas services in the ~~state~~ State.

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

2 § 202b. STATE COMPREHENSIVE ENERGY PLAN

3 (a) The ~~department of public service~~ Department of Public Service, in
4 conjunction with other state agencies designated by the ~~governor~~ Governor,
5 shall prepare a comprehensive state energy plan covering at least a 20-year
6 period. The plan shall seek to implement the state energy policy set forth in
7 section 202a of this title. 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.

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

14 (b) In developing or updating the plan's recommendations, the ~~department~~
15 ~~of public service~~ Department of Public Service shall seek public comment by
16 holding public hearings in at least five different geographic regions of the ~~state~~
17 State on at least three different dates, and by providing notice through
18 publication once a week and at least seven days apart for two or more
19 successive weeks in a newspaper or newspapers of general circulation in the
20 regions where the hearings will be held, and by delivering notices to all
21 licensed commercial radio and television stations with transmitting facilities

1 within the ~~state~~ State, plus Vermont Public Radio and Vermont Educational
2 Television.

3 (c) The ~~department~~ Department shall adopt a state energy plan by ~~no later~~
4 ~~than~~ January 1, 1994 2016 and shall readopt the plan by every sixth January 1
5 thereafter. On adoption or readoption, the plan shall be submitted to the
6 General Assembly. The provisions of 2 V.S.A. § 20(d) (expiration of required
7 reports) shall not apply to such submission.

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

10 (2) Every fourth year after the adoption or readoption of a plan under
11 this section, the Department shall publish the manner in which the Department
12 will engage the public in the process of readopting the plan under this section.

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

16 (4) The plan's implementation recommendations shall be updated by the
17 ~~department~~ Department no less frequently than every ~~five~~ six years. These
18 recommendations shall be updated prior to the expiration of ~~five~~ six years if
19 the ~~general assembly~~ General Assembly passes a joint resolution making a
20 request to that effect. If the ~~department~~ Department proposes or the ~~general~~
21 ~~assembly~~ General Assembly requests the revision of implementation

1 recommendations, the ~~department~~ Department shall hold public hearings on
2 the proposed revisions.

3 (d) ~~Any distribution~~ Distribution of the plan to members of the ~~general~~
4 ~~assembly~~ General Assembly shall be in accordance with the provisions of
5 2 V.S.A. § 20 ~~(a)-(c)~~.

6 Sec. 4. INTENT; RETROACTIVE APPLICATION

7 In enacting Secs. 2 (20-year electric plan) and 3 (comprehensive energy
8 plan) of this act, the General Assembly intends to set the readoption of these
9 plans by the Department of Public Service on a regular six-year cycle.

10 Sec. 5. REPEAL

11 21 V.S.A. § 269 (energy standards compliance plan; training; enforcement;
12 compliance measurement) is repealed.

13 * * * USF; Prepaid Wireless; Provider Assessment * * *

14 Sec. 6. 30 V.S.A. § 7521 is amended to read:

15 § 7521. CHARGE IMPOSED; WHOLESALE EXEMPTION

16 (a) A universal service charge is imposed on all retail telecommunications
17 service provided to a Vermont address. Where the location of a service and the
18 location receiving the bill differ, the location of the service shall be used to
19 determine whether the charge applies. The charge is imposed on the person
20 purchasing the service, but shall be collected by the telecommunications
21 provider. Each telecommunications service provider shall include in its tariffs

1 filed at the ~~public service board~~ Public Service Board a description of its
2 billing procedures for the universal service fund charge.

3 (b) The universal service charge shall not apply to wholesale transactions
4 between telecommunications service providers where the service is a
5 component part of a service provided to an end user. This exemption includes,
6 ~~but is not limited to,~~ network access charges and interconnection charges paid
7 to a local exchange carrier.

8 (c) In the case of mobile telecommunications service, the universal service
9 charge is imposed when the customer's place of primary use is in Vermont.
10 The terms "customer," "place of primary use," and "mobile
11 telecommunications service" have the meanings given in 4 U.S.C. § 124. All
12 provisions of 32 V.S.A. § 9782 shall apply to the imposition of the universal
13 service charge under this section.

14 (d)(1) In the case of prepaid wireless telecommunications services, the
15 universal service charge shall be imposed pursuant to either subdivision (A)
16 or (B) of this subdivision, at the discretion of the service provider:

17 (A) the universal service charge shall be imposed when funds are
18 applied to an account associated with a Vermont telephone number or a
19 Vermont address; or

20 (B) the universal service charge shall be imposed on the provider
21 based on its gross operating revenue.

1 (2) For purposes of this subsection:

2 (A) “Gross operating revenue” means the gross operating revenue
3 received by the provider in the conduct of its business in Vermont, as reported
4 to the Department of Public Service under section 22 of this title.

5 (B) “Prepaid wireless telecommunications service” means a
6 telecommunications service as defined in section 203(5) of this title that a
7 consumer pays for in advance and that is sold in predetermined units or dollars
8 which decline with use.

9 (e) If a provider of prepaid wireless telecommunications service submits
10 an attestation under oath with its annual report filed under section 22 of this
11 title and the attestation states the percentage of its services sold nationwide by
12 third-party resellers as opposed to services sold by the provider directly to
13 customers, the amount of the charge imposed under subsection (d) of this
14 section may be reduced by up to 25 percent in consideration of the
15 approximate percentage of services sold by third-party resellers in Vermont.

16 * * * Effective Date * * *

17 Sec. 7. EFFECTIVE DATE

18 This act shall take effect on passage.