

1 H.96

2 Introduced by Representatives Jewett of Ripton and Sharpe of Bristol

3 Referred to Committee on

4 Date:

5 Subject: Energy; public service; siting process; cost estimates

6 Statement of purpose of bill as introduced: This bill proposes to improve cost
7 estimation for public utility energy facilities by limiting the utility's rate
8 recovery to not more than the cost estimate on which an energy facility's
9 approval was based, unless the utility petitions the Public Service Board for a
10 review of the continued need and financial viability of the facility or the
11 approval of the facility is reopened.

12 An act relating to costs of public utility energy facilities subject to Public
13 Service Board siting review

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

15 Sec. 1. 30 V.S.A. § 218 is amended to read:

16 § 218. JURISDICTION OVER CHARGES AND RATES

17 (a) When, after opportunity for hearing, the rates, tolls, charges, or
18 schedules are found unjust, unreasonable, insufficient, or unjustly
19 discriminatory, or are found to be preferential or otherwise in violation of a
20 provision of this chapter, the Board may order and substitute therefor such

1 rates, tolls, charges, or schedules, and make such changes in any regulations,
2 measurements, practices, or acts of such company relating to its service, and
3 may make such order as will compel the furnishing of such adequate service as
4 shall at such hearing be found by it to be just and reasonable.

5 (1) This section ~~shall~~ does not be construed to require the same rates,
6 tolls, or charges from any company subject to supervision under this chapter
7 for like service in different parts of the State, but the Board in determining
8 these questions shall investigate local conditions and its final findings and
9 judgment shall take cognizance thereof.

10 (2) This section does not prohibit a telecommunications company from
11 filing tariffs that condition the availability of an intrastate service upon
12 subscription to an interstate or unregulated service from the same or an
13 affiliated company; provided that an incumbent local exchange carrier shall
14 provide a plan to allocate reasonably revenue between the regulated intrastate
15 service and other services. The Board shall retain the authority to review the
16 tariff filing to determine whether it is just and reasonable.

17 (3) When including expenditures related to an in-state facility approved
18 under section 248 of this title in the rates of an electric or natural gas
19 distribution company, the Board may include only the amount of those
20 expenditures that does not exceed the expenditure estimate on which the
21 approval was based. However, a company may recover expenditures related to

1 such a facility in excess of this estimate if it obtains an affirmative
2 determination under subsection 248(r) of this title or if the Board reopens the
3 certificate of public good issued for the facility under section 248 and reaffirms
4 issuance of that certificate. This subdivision shall apply in addition to the
5 other applicable standards for including costs in rates.

6 * * *

7 (d) The Board may permit recovery in a company's rates of all or a
8 reasonable portion of the company's expenditures directly related to aesthetic
9 improvements of utility substations, provided that such aesthetic improvements
10 are incidental to other necessary expenditures at or in the vicinity of the
11 substation and the expenditures meet the requirements of subdivision (a)(3) of
12 this section.

13 * * *

14 (f) Regulatory incentives for renewable generation.

15 (1) Notwithstanding any ~~other~~ provision of law; other than subdivision
16 (a)(3) of this section, the Board shall allow an electric distribution utility
17 subject to rate regulation under this chapter ~~shall be entitled~~ to recover in rates
18 its prudently incurred costs in applying for and seeking any certificate, permit,
19 or other regulatory approval issued or to be issued by federal, State, or local
20 government for the construction of new renewable energy to be sited in

1 Vermont, regardless of whether the certificate, permit, or other regulatory
2 approval ultimately is granted.

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

7 (3) ~~For the purpose of~~ In this subsection, “renewable energy” and “new
8 renewable energy” shall ~~be~~ have the same meaning as defined in section 8002
9 of this title.

10 * * *

11 Sec. 2. 30 V.S.A. § 218d is amended to read:

12 § 218d. ALTERNATIVE REGULATION OF ELECTRIC AND NATURAL
13 GAS COMPANIES

14 (a) Notwithstanding the provisions of section 218 other than subdivision
15 218(a)(3) and of sections 225-227 of this title, ~~upon~~ on petition of an electric or
16 natural gas company, ~~upon~~ request of the ~~department of public service~~
17 Department of Public Service, or ~~on~~ its own initiative, the ~~public service board~~
18 Public Service Board may, after opportunity for hearing, approve alternative
19 forms of regulation for an electric or natural gas company; ~~provided, however,~~
20 However, in the case of a municipal plant or department formed under local
21 charter ~~or~~, chapter 79 of this title, or an electric cooperative formed under

1 chapter 81 of this title, any alternative forms of regulation approved by the
2 ~~board~~ Board shall also be approved by a majority of the voters of a
3 municipality or cooperative voting upon the question at a duly warned annual
4 or special meeting held for that purpose. Before doing so, the ~~board~~ Board
5 shall find that the proposed form of alternative regulation will:

6 * * *

7 (d) Alternative regulation may include such changes or additions to,
8 waivers of, or alternatives to, traditional rate-making procedures, standards,
9 and mechanisms, including substantive changes to rate base-rate of return rate
10 setting, as the ~~board~~ Board finds will promote the public good and will support
11 the required findings in subsection (a) of this section. However, an alternative
12 regulation plan shall apply and shall not waive the provisions of subdivision
13 218(a)(3) of this title.

14 * * *

15 Sec. 3. 30 V.S.A. § 248(r) is added to read:

16 (r) A company subject to jurisdiction under subdivision 203(1) or (2) of
17 this title may submit a petition for an affirmative determination under this
18 subsection if it has received a certificate of public good for construction of an
19 in-state facility and the actual or projected costs of that facility will exceed the
20 cost estimate on which the certificate was based.

1 (1) The Board shall issue an affirmative determination under this
2 subsection if it finds that the facility continues to meet the criteria of
3 subdivisions (b)(2) (need), (4) (economic benefit), (6) (least cost plan) and, if
4 applicable, (7) (electric energy plan) of this section.

5 (2) The provisions of subdivision (a)(4) of this section shall apply to a
6 proceeding under this subsection. A petition under this subsection shall not be
7 eligible for treatment under subsection (j) of this section.

8 (3) An affirmative determination under this subsection shall not amend a
9 certificate of public good.

10 (4) This subsection shall be in addition to the Board's other authority. A
11 company shall have the option to petition to reopen or amend a certificate of
12 public good instead of seeking an affirmative determination under this
13 subsection. Receipt of a petition under this subsection shall not preclude the
14 Board's reopening a previously issued certificate of public good on its own
15 motion.

16 Sec. 4. EFFECTIVE DATE; APPLICABILITY

17 This act shall take effect on passage. Notwithstanding any contrary
18 provision of 1 V.S.A. § 213 or 214 or of a previously approved alternative
19 regulation plan, this act shall apply to expenditures by a company subject to
20 rate regulation by the Public Service Board for in-state facilities coming into
21 service on and after its effective date.