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H.199

Introduced by Representatives Nuovo of Middlebury, Potter of Clarendon,
Sheldon of Middlebury, Stuart of Brattleboro, Townsend of
South Burlington, Troiano of Stannard, and Young of Glover

Referred to Committee on

Date:

Subject: Energy; land use; natural resources; public service; municipal and
regional planning; electric generation and transmission facilities;
natural gas facilities

Statement of purpose of bill as introduced: This bill proposes to require that
electric generation and natural gas facilities conform to the municipal and
regional plans for the area in which they will be located. The bill also
proposes to direct the Public Service Board to give greater weight to evidence
presented by a municipal legislative body, municipal or regional planning
commission, or resident of a municipality in which an electric generation or
transmission or natural gas facility will be located.

An act relating to siting approvals for energy facilities

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

1 Sec. 1. 30 V.S.A. § 248 is amended to read:

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

4 (a)(1) No company, as defined in section 201 of this title, may:

5 * * *

6 (2) Except for the replacement of existing facilities with equivalent
7 facilities in the usual course of business, and except for electric generation
8 facilities that are operated solely for on-site electricity consumption by the
9 owner of those facilities:

10 (A) no company, as defined in section 201 of this title, and no person,
11 as defined in 10 V.S.A. § 6001(14), may begin site preparation for or
12 construction of an electric generation facility or electric transmission facility
13 within the State which is designed for immediate or eventual operation at any
14 voltage; and

15 (B) no such company may exercise the right of eminent domain in
16 connection with site preparation for or construction of any such transmission or
17 generation facility, unless the Public Service Board first finds that the same
18 will promote the general good of the State and issues a certificate to that effect.

19 (3) No company, as defined in section 201 of this title, and no person, as
20 defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or
21 commence construction of any natural gas facility, except for the replacement

1 of existing facilities with equivalent facilities in the usual course of business,
2 unless the Public Service Board first finds that the same will promote the
3 general good of the State and issues a certificate to that effect pursuant to this
4 section.

5 (A) ~~For the purposes of~~ In this section, the term “natural gas facility”
6 shall mean any natural gas transmission line, storage facility, manufactured-gas
7 facility, or other structure incident to any of the above. ~~For the purposes of~~ In
8 this section, a “natural gas transmission line” shall include any feeder main or
9 any pipeline facility constructed to deliver natural gas in Vermont directly
10 from a natural gas pipeline facility that has been certified pursuant to the
11 Natural Gas Act, 15 U.S.C. § 717 et seq.

12 (B) ~~For the purposes of~~ In this section, the term “company” shall not
13 include a “natural gas company” (including a “person which will be a natural
14 gas company upon completion of any proposed construction or extension of
15 facilities”), within the meaning of the Natural Gas Act, 15 U.S.C. § 717 et seq.;
16 provided, however, that the term “company” shall include any “natural gas
17 company” to the extent it proposes to construct in Vermont a natural gas
18 facility that is not solely subject to federal jurisdiction under the Natural
19 Gas Act.

20 * * *

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

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

7 (C) At the time of filing its application with the Board, copies shall
8 be given by the petitioner to the Attorney General and the Department of
9 Public Service, and, with respect to facilities within the State, the Department
10 of Health, Agency of Natural Resources, Historic Preservation Division,
11 Agency of Transportation, Agency of Agriculture, Food and Markets, and to
12 the chairperson or director of the municipal and regional planning
13 commissions and the municipal legislative body for each town and city in
14 which the proposed facility will be located. At the time of filing its application
15 with the Board, the petitioner shall give the Byways Advisory Council notice
16 of the filing.

17 (D) Notice of the public hearing shall be published and maintained
18 on the Board's website for at least 12 days before the day appointed for the
19 hearing. Notice of the public hearing shall be published once in a newspaper
20 of general circulation in the county or counties in which the proposed facility

1 will be located, and the notice shall include an Internet address where more
2 information regarding the proposed facility may be viewed.

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

8 (F) The petitioner shall have the burden of proof by clear and
9 convincing evidence on any issue raised or evidence provided on the
10 application by a municipal legislative body, municipal or regional planning
11 commission, or resident of a municipality in which the facility will be located
12 if the issue or evidence is relevant to the general good of the State under this
13 subsection or the criteria of subsection (b) of this section.

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

17 (1) with respect to an in-state facility, will not unduly interfere with the
18 orderly development of the region ~~with~~ and will conform to the municipal and
19 regional plans for the area in which the facility is to be located. However, with
20 respect to an electric transmission facility, the Board shall not require
21 conformance with the municipal and regional plans, and shall instead give due

1 consideration ~~having been given~~ to the recommendations of the municipal and
2 regional planning commissions, the recommendations of the municipal
3 legislative bodies, and the land conservation measures contained in the plan of
4 any affected municipality. ~~However, with respect to a natural gas transmission~~
5 ~~line subject to Board review, the line shall be in conformance with any~~
6 ~~applicable provisions concerning such lines contained in the duly adopted~~
7 ~~regional plan; and, in addition, upon application of any party, the Board shall~~
8 ~~condition any certificate of public good for a natural gas transmission line~~
9 ~~issued under this section so as to prohibit service connections that would not be~~
10 ~~in conformance with the adopted municipal plan in any municipality in which~~
11 ~~the line is located;~~

12 * * *

13 Sec. 2. APPLICABILITY

14 Notwithstanding 1 V.S.A. §§ 213 and 214, this act shall apply to
15 applications pending as of its effective date.

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on passage.