

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 230 entitled “An act relating to improving the siting of energy
4 projects” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 * * * Designation * * *

8 Sec. 1. DESIGNATION OF ACT

9 This act shall be referred to as the Energy Development Improvement Act.

10 * * * Integration of Energy and Land Use Planning * * *

11 Sec. 2. 24 V.S.A. § 4302(c)(7) is amended to read:

12 (7) To ~~encourage the~~ make efficient use of energy ~~and, provide for~~
13 the development of renewable energy resources, and reduce emissions of
14 greenhouse gases. consistent with the following:

15 ~~(A) Vermont’s greenhouse gas reduction goals under 10 V.S.A.~~

16 ~~§ 578(a);~~

17 ~~(B) Vermont’s 25 by 25 goal for renewable energy under~~

18 ~~10 V.S.A. § 580;~~

19 ~~(C) Vermont’s building efficiency goals under 10 V.S.A. § 581;~~

20 ~~(D) State energy policy under 30 V.S.A. § 202a and the specific~~

21 ~~recommendations identified in the State energy plans adopted pursuant to~~

1 ~~30 V.S.A. §§ 202 and 202b pertaining to the efficient use of energy and the~~
2 ~~siting and development of renewable energy resources; and~~
3 ~~(E) the distributed renewable generation and energy~~
4 ~~transformation categories of resources to meet the requirements of the~~
5 ~~Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005.~~

6 ~~(A) General strategies for achieving these goals include~~
7 ~~increasing the energy efficiency of new and existing buildings; identifying~~
8 ~~appropriate areas for renewable energy generation; encouraging the use~~
9 ~~and development of renewable or lower emission energy sources for~~
10 ~~electricity, heat, and transportation; and reducing transportation energy~~
11 ~~demand and single occupancy vehicle use.~~

12 ~~(B) Specific strategies and recommendations for achieving these~~
13 ~~goals are identified in the State energy plans prepared under 30 V.S.A.~~
14 ~~§§ 202 and 202b.~~

15 Sec. 3. 24 V.S.A. § 4345 is amended to read:

16 § 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING
17 COMMISSIONS

18 Any regional planning commission created under this chapter may:

19 * * *

20 (6) Undertake studies and make recommendations on land development,
21 urban renewal, transportation, economic, industrial, commercial, and social

1 development, urban beautification and design improvements, historic and
2 scenic preservation, ~~the conservation of energy and the development of~~
3 ~~renewable energy resources~~, State capital investment plans, and wetland
4 protection.

5 * * *

6 Sec. 4. 24 V.S.A. § 4345a is amended to read:

7 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

8 A regional planning commission created under this chapter shall:

9 * * *

10 (14) With respect to proceedings under 30 V.S.A. § 248:

11 (A) have the right to appear and participate; and

12 (B) ~~Appear~~ appear before the Public Service Board to aid ~~the Board~~
13 in making determinations under ~~30 V.S.A. § 248~~ that statute when requested
14 by the Board.

15 * * *

16 (19) Undertake studies and make recommendations on the conservation
17 of energy and the development of renewable energy resources.

18 Sec. 5. 24 V.S.A. § 4348a(a)(3) is amended to read:

19 (3) An energy element, which may include ~~a comprehensive an~~
20 analysis of ~~energy~~ resources, needs, scarcities, costs, and problems within the
21 region; across all energy sectors, including electric, thermal, and

1 transportation; a statement of policy on the conservation and efficient use of
2 energy and the development and siting of ~~distributed and utility-scale~~
3 renewable energy resources, and; a statement of policy on patterns and
4 densities of land use and control devices likely to result in conservation of
5 energy; and ~~a statement of policy on and~~ an identification of potential areas
6 for the development and siting of renewable energy resources and areas that
7 are inappropriate for siting those resources or particular categories or sizes of
8 those resources.

9 Sec. 6. 24 V.S.A. § 4352 is added to read:

10 § 4352. **CERTIFICATION OPTIONAL AFFIDAVIT OF ENERGY**

11 **COMPLIANCE; REGIONAL AND MUNICIPAL PLANS**

12 **ENHANCED ENERGY PLANNING**

13 (a) Regional plan ~~certification~~. A regional planning commission may
14 submit its adopted regional plan to the Commissioner of Public Service
15 appointed under 30 V.S.A. § 1 for ~~a certification of issuance of an affidavit~~
16 ~~of energy compliance~~. The Commissioner shall issue such ~~a certification an~~
17 ~~affidavit~~ on finding that the regional plan ~~is consistent with the statutes,~~
18 ~~goals, and policies listed in subdivision 4302(c)(7) of this title meets the~~
19 ~~requirements of subsection (c) of this section and allows for the siting in~~
20 ~~the region of all types of renewable generation technologies.~~

1 (b) Municipal plan ~~certification~~. If the Commissioner of Public Service
2 has ~~certified~~ issued an affidavit for a regional plan that is in effect, a
3 municipal legislative body within the region may submit its adopted municipal
4 plan to the regional planning commission for ~~a certification of issuance of an~~
5 affidavit of energy compliance. ~~Such a submission may be made separately~~
6 from or at the same time as a request for review and approval of the
7 municipal plan under section 4350 of this title. The regional planning
8 commission shall issue such ~~a certification~~ an affidavit, signed by the chair
9 of the regional planning commission, on finding that the municipal plan is
10 consistent with the statutes, goals, and policies listed in subdivision
11 4302(c)(7) of this title and the portions of the regional plan that implement
12 those statutes, goals, and policies meets the requirements of subsection (c)
13 of this section and is consistent with the regional plan.

14 ~~(e) Standards. In determining whether to issue a certification of~~
15 energy compliance under this section, the Commissioner or regional
16 planning commission shall employ the standards for issuing such a
17 certification developed pursuant to 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).

18 (c) Enhanced energy planning; requirements. To obtain an affidavit of
19 energy compliance under this section, a plan must:

20 (1) in the case of a regional plan, include the energy element as
21 described in subdivision 4348a(a)(3) of this title;

1 **(2) in the case of a municipal plan, include the energy element as**
2 **described in subdivision 4382(a)(9) of this title and be confirmed under**
3 **section 4350 of this title;**

4 **(3) be consistent with the following:**

5 **(A) Vermont’s greenhouse gas reduction goals under 10 V.S.A.**
6 **§ 578(a);**

7 **(B) Vermont’s 25 by 25 goal for renewable energy under**
8 **10 V.S.A. § 580;**

9 **(C) Vermont’s building efficiency goals under 10 V.S.A. § 581;**

10 **(D) State energy policy under 30 V.S.A. § 202a and the**
11 **recommendations for regional and municipal energy planning pertaining**
12 **to the efficient use of energy and the siting and development of renewable**
13 **energy resources contained in the State energy plans adopted pursuant to**
14 **30 V.S.A. §§ 202 and 202b (State energy plans); and**

15 **(E) the distributed renewable generation and energy**
16 **transformation categories of resources to meet the requirements of the**
17 **Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005; and**

18 **(4) meet the standards for issuing an affidavit of energy compliance**
19 **included in the State energy plans.**

1 **(d) State energy plans; recommendations; standards.**

2 **(1) The State energy plans shall include the recommendations for**
3 **regional and municipal energy planning and the standards for issuing an**
4 **affidavit of energy compliance described in subdivision (c)(3) of this**
5 **section.**

6 **(2) The recommendations shall provide strategies and options for**
7 **regional planning commissions and municipalities to employ in meeting**
8 **the statutes listed in subdivision (c)(3) of this section.**

9 **(3) The standards shall consist of a list of criteria for issuing an**
10 **affidavit of energy compliance that ensure consistency with the statutes**
11 **listed in subdivision (c)(3) of this section and the recommendations**
12 **developed pursuant to this subsection. The standards shall address each**
13 **of the following elements:**

14 **(A) increasing the energy efficiency of new and existing**
15 **buildings;**

16 **(B) identifying appropriate areas for renewable energy**
17 **generation;**

18 **(C) encouraging the use and development of renewable or other**
19 **energy sources for electricity, heat, and transportation that result in**
20 **reduced emissions; and**

1 (D) reducing transportation energy demand and single
2 occupancy vehicle use.

3 (4) The Commissioner of Public Service shall provide the
4 Commissioner of Housing and Community Development with a copy of
5 the recommendations and standards developed under this subsection for
6 inclusion in the planning and land use manual prepared pursuant to
7 section 4304 of this title.

8 (e) Process for issuing affidavits of energy compliance. Review of
9 whether to issue ~~a certification an affidavit~~ under this section shall include a
10 public hearing noticed at least 15 days in advance by direct mail to the
11 requesting regional planning commission or municipal legislative body,
12 posting on the website of the entity from which the ~~certification affidavit~~ is
13 requested, and publication in a newspaper of general publication in the region
14 or municipality affected. The Commissioner or regional planning commission
15 shall ~~grant or deny certification~~ issue or decline to issue the affidavit within
16 two months of the receipt of a request for ~~certification an affidavit~~. If
17 ~~certification is denied~~ issuance of an affidavit is denied, the Commissioner
18 or regional planning commission shall state the reasons for denial in writing
19 and, if appropriate, suggest acceptable modifications. Submissions for
20 ~~certification an affidavit~~ that follow a denial shall receive ~~a grant or denial~~
21 ~~of certification an affidavit or denial of an affidavit~~ within 45 days.

1 (f) Appeal. A regional planning commission aggrieved by an act or
2 decision of the Commissioner of Public Service under this section ~~or a~~
3 ~~municipality aggrieved by an act or decision of a regional planning~~
4 ~~commission under this section may appeal to a hearing officer the hearing~~
5 ~~panel established by this subsection within 30 days of the act or decision.~~
6 ~~The hearing officer shall be one of five attorneys retained by the~~
7 ~~Commissioner for this purpose, none of whom shall be an employee of the~~
8 ~~Department of Public Service. Within 15 days of the filing of the appeal,~~
9 ~~the parties shall jointly select the hearing officer from among these~~
10 ~~retained attorneys.~~

11 (1) The hearing panel shall consist of the following members:

12 (A) A member appointed by the Vermont Association of
13 Planning and Development Agencies.

14 (B) A member appointed by the Vermont League of Cities and
15 Towns.

16 (C) A member appointed by the Commissioner of Public Service.

17 (D) Other members?

18 (2) A member of the hearing panel shall not be an employee of the
19 Department of Public Service. The provisions of 12 V.S.A. § 61
20 (disqualification for interest) shall apply to the members of the hearing
21 panel.

1 **(3) The hearing ~~officer panel~~ shall conduct a de novo hearing on the act**
2 **or decision under appeal and shall proceed in accordance with the contested**
3 **case requirements of the Vermont Administrative Procedure Act. The hearing**
4 **officer panel shall ~~have authority to decide the appeal and shall~~ issue a**
5 **final decision within 90 days of the filing of the appeal. ~~A hearing officer~~**
6 **shall not conduct an appeal if the officer has a personal or pecuniary**
7 **interest in the act or decision on appeal.**

8 **(4) The hearing panel shall be entitled to the professional and**
9 **administrative assistance of [WHO STAFFS PANEL?].**

10 **(g) Municipal affidavit from DPS; time-limited option. Until July 1,**
11 **2018, a municipality whose plan has been confirmed under section 4350 of**
12 **this title may seek issuance of an affidavit of energy compliance from the**
13 **Commissioner of Public Service if it is a member of a regional planning**
14 **commission whose regional plan has not received such an affidavit.**

15 **(1) The Commissioner shall issue an affidavit of energy compliance**
16 **for the municipal plan on finding that the plan meets the requirements of**
17 **subsection (c) of this section. The Commissioner's review of the municipal**
18 **plan shall be for the purpose only of determining whether an affidavit of**
19 **energy compliance should be issued because those requirements are met.**

1 **(2) A municipality aggrieved by an act or decision of the**
2 **Commissioner under this subsection may appeal in accordance with the**
3 **procedures of subsection (f) of this section.**

4 **(h) Affidavit; time period. An affidavit of energy compliance issued**
5 **pursuant to this section shall remain in effect until the end of the period**
6 **for expiration or readoption of the plan to which it applies.**

7 **(i) Commissioner; consultation. In the discharge of the duties assigned**
8 **under this section, the Commissioner may consult with and shall be**
9 **entitled to receive the assistance of the Secretaries of Agriculture, Food**
10 **and Markets; of Commerce and Community Development; of Natural**
11 **Resources; and of Transportation.**

12 Sec. 7. 24 V.S.A. § 4382(a)(9) is amended to read:

13 (9) An energy plan, including ~~a comprehensive~~ analysis of energy
14 resources, needs, scarcities, costs, and problems within the municipality; across
15 all energy sectors, including electric, thermal, and transportation; a statement
16 of policy on the conservation and efficient use of energy, including programs,
17 such as thermal integrity standards for buildings, to implement that policy; a
18 statement of policy on the development and siting of ~~distributed and~~
19 utility-scale renewable energy resources; and a statement of policy on
20 patterns and densities of land use likely to result in conservation of energy and
21 a statement of policy on and an identification of potential areas for the

1 ~~**development and siting of renewable energy resources and areas that are**~~
2 ~~**inappropriate for siting those resources or particular categories or sizes of**~~
3 ~~**those resources.**~~

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

5 § 202. ELECTRICAL ENERGY PLANNING

6 * * *

7 (b) The Department, through the Director, shall prepare an electrical energy
8 plan for the State. The Plan shall be for a 20-year period and shall serve as a
9 basis for State electrical energy policy. The Electric Energy Plan shall be
10 based on the principles of “least cost integrated planning” set out in and
11 developed under section 218c of this title. The Plan shall include at a
12 minimum:

13 * * *

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

18 (5) specific strategies for reducing electric rates to the greatest extent
19 possible in Vermont over the most immediate six-year period, for the next
20 succeeding six-year period, and long-term sustainable strategies for achieving
21 and maintaining the lowest possible electric rates over the full 20-year

1 planning horizon consistent with the goal of maintaining a financially stable
2 electric utility industry in Vermont; and

3 ~~**(6) the following for use as guidance to municipal and regional**~~
4 ~~**planning commissions in preparing municipal and regional plans under**~~
5 ~~**24 V.S.A. chapter 117 that are consistent with the statutes listed in**~~
6 ~~**24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of**~~
7 ~~**energy compliance under that chapter;**~~

8 ~~**(A) specific recommendations on the conservation and efficient**~~
9 ~~**use of electric energy and the development and siting of renewable electric**~~
10 ~~**generation, developed in accordance with 24 V.S.A. § 4302(c)(7); and**~~

11 ~~**(B) based on 24 V.S.A. § 4302(c)(7) and the recommendations**~~
12 ~~**developed under subdivision (A) of this subdivision (6), a list of standards**~~
13 ~~**for use in determining whether municipal and regional plans should**~~
14 ~~**receive a certificate of energy compliance under 24 V.S.A. § 4352**~~
15 ~~**recommendations for regional and municipal energy planning and**~~
16 ~~**standards for issuing an affidavit of energy compliance pursuant to**~~
17 ~~**24 V.S.A. § 4352.**~~

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 relevant goals of 24 V.S.A. § 4302; the potential for reduction of rates paid
21 by all retail electricity customers; the potential for reduction of electrical

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

5 (d) In establishing plans, the Director shall:

6 (1) Consult with:

7 (A) the public;

8 (B) Vermont municipal utilities and planning commissions;

9 (C) Vermont cooperative utilities;

10 (D) Vermont investor-owned utilities;

11 (E) Vermont electric transmission companies;

12 (F) environmental and residential consumer advocacy groups active
13 in electricity issues;

14 (G) industrial customer representatives;

15 (H) commercial customer representatives;

16 (I) the Public Service Board;

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

19 (K) other interested State agencies; ~~and~~

20 (L) other energy providers; and

21 (M) the regional planning commissions.

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* * *

(e) The Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in accordance with this section by every sixth January **1 15** thereafter, and shall be submitted to the General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the submission to be made under this subsection.

* * *

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

* * *

(j) For the purpose of assisting in the development of ~~land-use municipal~~ **and regional** plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publicly available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to

1 obtain from those utilities such data as the Director considers necessary to
2 discharge his or her duties under this subsection.

3 Sec. 9. 30 V.S.A. § 202b is amended to read:

4 § 202b. STATE COMPREHENSIVE ENERGY PLAN

5 (a) The Department of Public Service, in conjunction with other State
6 agencies designated by the Governor, shall prepare a State Comprehensive
7 Energy Plan covering at least a 20-year period. The Plan shall seek to
8 implement the State energy policy set forth in section 202a of this title and
9 shall be consistent with the **relevant** goals of 24 V.S.A. § 4302. The Plan shall
10 include:

11 (1) a comprehensive analysis and projections regarding the use, cost,
12 supply, and environmental effects of all forms of energy resources used within
13 Vermont; ~~and~~

14 (2) recommendations for State implementation actions, regulation,
15 legislation, and other public and private action to carry out the comprehensive
16 energy plan; and

17 ~~(3) the following for use as guidance to municipal and regional~~
18 ~~planning commissions in preparing municipal and regional plans under~~
19 ~~24 V.S.A. chapter 117 that are consistent with the statutes listed in~~
20 ~~24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of~~
21 ~~energy compliance under that chapter;~~

1 Secs. 8 and 9 Sec. 6 of this act. Prior to issuing these recommendations and
2 standards, the Department shall post on its website a draft set of initial
3 recommendations and standards and provide notice and an opportunity to
4 comment and request a public hearing to all persons listed in 30 V.S.A.
5 § 202(d)(1). The Commissioner may elect to hold one or more public hearings
6 on the Commissioner’s own initiative.

7 (b) On publication under subsection (a) of this section, the specific
8 recommendations and standards shall be considered an appendix to the
9 currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this
10 publication, the Department may revise these recommendations and standards
11 in accordance with the procedures for adopting and revising plans under those
12 statutes.

13 Sec. 11. TRAINING

14 Following publication of the recommendations and standards under
15 Sec. 10(a) of this act, the Department of Public Service shall conduct a series
16 of training sessions in locations across the State for municipal and regional
17 planning commissions to assist them in the development of **land use**
18 **municipal and regional** plans that are eligible ~~for certification~~ **to receive an**
19 **affidavit of energy compliance** under Sec. 6 of this act, 24 V.S.A. § 4352.
20 The Department shall develop and present these workshops in collaboration
21 with the Vermont League of Cities and Towns and the Vermont Association of

1 Planning and Development Agencies. The Department shall ensure that all
2 municipal and regional planning commissions receive prior notice of the
3 workshops.

4 **~~Sec. 12. PLANNING SUPPORT; ALLOCATION OF COSTS~~**

5 **~~(a) During fiscal year 2017, the Commissioner of Public Service, in~~**
6 **~~consultation with the Commissioner of Housing and Community~~**
7 **~~Development, shall disburse an amount not to exceed \$300,000.00 to~~**
8 **~~regional planning commissions established under 24 V.S.A. chapter 117~~**
9 **~~and to municipalities for one or more of the following purposes:~~**

10 **~~(1) implementation of Secs. 2 (purpose; goals); 5 (elements of a~~**
11 **~~regional plan), 6 (certification of energy compliance), and 7 (the plan for a~~**
12 **~~municipality) of this act;~~**

13 **~~(2) the implementation by a regional planning commission of~~**
14 **~~24 V.S.A. § 4345a (studies and recommendations on energy);~~**

15 **~~(3) participation in the development of recommendations and~~**
16 **~~standards pursuant to Secs. 8 (electrical energy plan), 9 (comprehensive~~**
17 **~~energy plan), and 10 (initial implementation; certification; standards) of~~**
18 **~~this act; and~~**

19 **~~(4) assistance by a regional planning commission to the Department~~**
20 **~~of Public Service (the Department) in providing training under Sec. 11~~**
21 **~~(training) of this act or to municipalities in the implementation of this act.~~**

1 ~~**(b) In disbursing funds under this section, the Commissioners shall**~~
2 ~~**consider the need and size of a municipality or region and the availability,**~~
3 ~~**if any, of other assistance, expertise, or funds to a municipality or region**~~
4 ~~**to implement this act.**~~

5 ~~**(c) The Commissioner of Public Service shall allocate costs under**~~
6 ~~**subsection (a) of this section to the electric distribution utilities subject to**~~
7 ~~**its supervision under Title 30 of the Vermont Statutes Annotated based on**~~
8 ~~**their pro rata share of total Vermont retail kilowatt-hour sales for the**~~
9 ~~**previous fiscal year. Each of these utilities shall pay its allocation into the**~~
10 ~~**State Treasury at such time and in such manner as the Commissioner may**~~
11 ~~**direct.**~~

12 * * * Siting Process; Criteria; Conditions * * *

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

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

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

17 * * *

18 (2) Except for the replacement of existing facilities with equivalent
19 facilities in the usual course of business, and except for electric generation
20 facilities that are operated solely for on-site electricity consumption by the
21 owner of those facilities and for hydroelectric generation facilities subject to

1 licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12,
2 subchapter 1:

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

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

12 * * *

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

17 * * *

18 (C) At the time of filing its application with the Board, copies shall
19 be given by the petitioner to the Attorney General and the Department of
20 Public Service, and, with respect to facilities within the State, the Department
21 of Health, Agency of Natural Resources, Historic Preservation Division,

1 Agency of Transportation, Agency of Agriculture, Food and Markets, and to
2 the chair or director of the municipal and regional planning commissions and
3 the municipal legislative body for each town and city in which the proposed
4 facility will be located.

5 * * *

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

11 (F) ~~The following shall apply to the participation of the Agency of~~
12 ~~Agriculture, Food and Markets shall have the right to appear and~~
13 ~~participate in proceedings held under this subsection.~~

14 ~~(i) In any proceeding regarding an electric generation facility~~
15 ~~that will have a capacity greater than 150 kilowatts and will be sited on a~~
16 ~~tract containing primary agricultural soils as defined in 10 V.S.A. § 6001,~~
17 ~~the Agency shall appear as a party and provide evidence and~~
18 ~~recommendations concerning any findings to be made under subdivision~~
19 ~~(b)(5) of this section on those soils, and may provide evidence and~~
20 ~~recommendations concerning any other matters to be determined by the~~
21 ~~Board in such a proceeding.~~

1 ~~(ii) In a proceeding other than one described in subdivision (i)~~
2 ~~of this subdivision (4)(F), the Agency shall have the right to appear and~~
3 ~~participate.~~

4 (G) The regional planning commission for the region in which the
5 facility is located shall have the right to appear as a party in any proceedings
6 held under this subsection. The regional planning commission of an adjacent
7 region shall have the same right if the facility is located within 500 feet of the
8 boundary of that planning commission.

9 (H) The legislative body and the planning commission for the
10 municipality in which a facility is located shall have the right to appear as a
11 party in any proceedings held under this subsection. The legislative body and
12 planning commission of an adjacent municipality shall have the same right if
13 the facility is located within 500 feet of the boundary of that adjacent
14 municipality.

15 (I) When a person has the right to appear and participate in a
16 proceeding before the Board under this chapter, the person may activate
17 exercise this right by filing a letter with the Board stating that the person
18 appears through the person's duly authorized representative, signed by that
19 representative.

20 (J) With respect to an application for an electric generation facility
21 with a capacity that is greater than 15 50 kilowatts, and in addition to any other

1 information required by the Board, the application shall include information
2 that delineates:

3 (i) the full limits of physical disturbance due to the construction
4 and operation of the facility and related infrastructure, including areas
5 disturbed due to the creation or modification of access roads and utility lines
6 and the clearing or management of vegetation;

7 (ii) the presence and total acreage of primary agricultural soils as
8 defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in
9 connection with the construction and operation of the facility and the amount
10 of those soils to be disturbed;

11 (iii) all visible infrastructure associated with the facility; and

12 (iv) all impacts of the facility’s construction and operation under
13 subdivision (b)(5) of this section, including impacts due to the creation or
14 modification of access roads and utility lines and the clearing or management
15 of vegetation.

16 ~~(5) A petition under this section for an in-state facility that is not a~~
17 ~~net metering system as defined in this title shall include a life cycle~~
18 ~~analysis of the greenhouse gas impacts of the facility that the Board shall~~
19 ~~consider in issuing findings under subdivisions (b)(2) and (5) of this~~
20 ~~section. In this subsection, “facility” includes all generating equipment.~~

1 ~~poles, wires, substations, structures, roads, and infrastructure, and all~~
2 ~~other associated land development. This analysis shall include:~~

3 ~~(A) emissions embodied in all facility components;~~

4 ~~(B) emissions associated with the transportation of all such~~
5 ~~components to the site or sites at which they will be installed;~~

6 ~~(C) emissions associated with site preparation, including the~~
7 ~~clearing of forested areas and reductions in future carbon sequestration~~
8 ~~potential from the facility site or sites;~~

9 ~~(D) emissions associated with the construction of all facility~~
10 ~~components;~~

11 ~~(E) emissions associated with the operation of the facility;~~

12 ~~(F) emissions associated with the decommissioning of the~~
13 ~~facility; and~~

14 ~~(G) for facilities that employ renewable energy as defined under~~
15 ~~section 8002 of this title, the reduction in greenhouse gas emissions~~
16 ~~achieved by the facility as compared to alternative generation facilities~~
17 ~~that do not employ renewable energy.~~

18 ~~(6) The Board shall adopt rules ~~applicable to~~ regarding standard~~
19 ~~conditions on postconstruction inspection and maintenance of aesthetic~~
20 ~~mitigation and on decommissioning to be included in certificates of public~~
21 ~~good for in-state facilities approved under this section. The purpose of these~~

1 standard conditions shall be to ensure that all required aesthetic
2 mitigation is performed and maintained and that facilities are removed
3 once they are no longer in service.

4 ~~(A) With respect to all measures required to be undertaken to~~
5 ~~mitigate the impacts of such a facility on aesthetics and scenic beauty, the~~
6 ~~rules shall:~~

7 ~~(i) ensure that there is postconstruction inspection to~~
8 ~~determine whether all required mitigation measures have been~~
9 ~~undertaken and required plantings have been installed, including such~~
10 ~~inspection of facilities approved prior to the effective date of this~~
11 ~~subsection;~~

12 ~~(ii) ensure that the holder of a certificate for such a facility has~~
13 ~~an enforceable right to install and maintain all required plantings and~~
14 ~~manage all vegetation used to demonstrate the facility will not have an~~
15 ~~undue adverse effect on aesthetics;~~

16 ~~(iii) after installation of all required plantings, require annual~~
17 ~~submission for a period to be determined by the Board of documentation~~
18 ~~that the plantings have been maintained in accordance with the approved~~
19 ~~plans; and~~

20 ~~(iv) ensure that the holder of a certificate for such a facility~~
21 ~~has an ongoing duty to maintain the plantings in accordance with the~~

1 ~~approved plans and replace dead or diseased plantings as soon as~~
2 ~~seasonably possible.~~

3 ~~(B) With respect to decommissioning of electric generation~~
4 ~~facilities, the rules:~~

5 ~~(i) shall ensure that all such facilities with a plant capacity as~~
6 ~~defined in section 8002 of this title greater than 150 kilowatts are subject~~
7 ~~to a decommissioning plan approved by the Board;~~

8 ~~(ii) shall ensure that all such facilities above a plant capacity to~~
9 ~~be determined by the Board post a bond or offer other security or~~
10 ~~financial assurance acceptable to the Board that is sufficient to finance the~~
11 ~~decommissioning activities in full; and~~

12 ~~(iii) may allow net metering systems as defined in this title to~~
13 ~~pool or otherwise aggregate the provision of security or other financial~~
14 ~~assurance to finance those decommissioning activities.~~

15 (6) The Board shall require any in-state wind electric generation facility
16 receiving a certificate of public good to install radar-controlled obstruction
17 lights on all wind turbines for which the Federal Aviation Administration
18 (FAA) requires obstruction lights, provided the FAA allows the use of
19 radar-controlled lighting technology.

20 (A) Nothing in this subdivision shall allow the Board to approve
21 obstruction lights that do not meet FAA standards.

1 (B) The purpose of this subdivision is to reduce the visual impact of
2 wind turbine obstruction lights on the environment and nearby properties. The
3 General Assembly finds that wind turbine obstruction lights that remain
4 illuminated through the night create light pollution, and may attract birds and
5 bats. Radar-controlled obstruction lights are only illuminated when aircraft are
6 detected in the area, and therefore the use of these lights will reduce the
7 negative environmental impacts of obstruction lights.

8 (7) When a certificate of public good under this section or amendment
9 to such a certificate is issued for an in-state electric generation facility, the
10 certificate holder within 45 days shall record a notice of the certificate or
11 amended certificate, on a form prescribed by the Board, in the land records of
12 each municipality in which a facility subject to the certificate is located and
13 shall submit proof of this recording to the Board. The recording under this
14 subsection shall be indexed as though the certificate holder were the grantor of
15 a deed. The prescribed form shall not exceed one page and shall require
16 identification of the land on which the facility is to be located by reference to
17 the conveyance to the current landowner, the number of the certificate, and the
18 name of each person to which the certificate was issued, and shall include
19 information on how to contact the Board to view the certificate and supporting
20 documents.

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

4 (1) With respect to an in-state facility, will not unduly interfere with the
5 orderly development of the region with due consideration having been given to
6 the recommendations of the municipal and regional planning commissions, the
7 recommendations of the municipal legislative bodies, and the land
8 conservation measures contained in the plan of any affected municipality.

9 However:

10 (A) ~~with~~ With respect to a natural gas transmission line subject to
11 Board review, the line shall be in conformance with any applicable provisions
12 concerning such lines contained in the duly adopted regional plan; and, in
13 addition, upon application of any party, the Board shall condition any
14 certificate of public good for a natural gas transmission line issued under this
15 section so as to prohibit service connections that would not be in conformance
16 with the adopted municipal plan in any municipality in which the line is
17 located; ~~and~~.

18 (B) ~~with~~ With respect to a ground-mounted solar electric generation
19 facility, the facility shall comply with the screening requirements of a
20 municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance
21 adopted under 24 V.S.A. § 2291(28), and the recommendation of a

1 municipality applying such a bylaw or ordinance, unless the Board finds that
2 requiring such compliance would prohibit or have the effect of prohibiting the
3 installation of such a facility or have the effect of interfering with the facility’s
4 intended functional use.

5 ~~**(C) The Board shall apply the land conservation measures and**~~
6 ~~**specific policies contained in a duly adopted municipal or regional plan to**~~
7 ~~**an application for an in-state electric generation facility as follows:**~~

8 ~~**(i) For an application filed before March 1, 2017, the Board**~~
9 ~~**shall defer to such a measure or policy and apply it in accordance with its**~~
10 ~~**terms unless a preponderance of the evidence demonstrates that other**~~
11 ~~**factors affecting the general good of the State outweigh the application of**~~
12 ~~**the measure or policy.**~~

13 ~~**(ii) For an application filed on or after March 1, 2017:**~~

14 ~~**(I) If the plan has received a certificate of energy**~~
15 ~~**compliance under 24 V.S.A. § 4352, the Board shall defer to such a**~~
16 ~~**measure or policy and apply it in accordance with its terms unless there is**~~
17 ~~**a clear and convincing demonstration that other factors affecting the**~~
18 ~~**general good of the State outweigh the application of the measure or**~~
19 ~~**policy.**~~

1 ~~(H) If the plan has not received a certificate of energy~~
2 ~~compliance under 24 V.S.A. § 4352, the Board shall give due consideration~~
3 ~~to such a measure or policy.~~

4 (C) With respect to an in-state electric generation facility, the
5 Board shall give substantial deference to the land conservation measures
6 and specific policies contained in a duly adopted regional and municipal
7 plan that has received an affidavit of energy compliance under 24 V.S.A.
8 § 4352. In this subdivision (C), “substantial deference” means that a land
9 conservation measure or specific policy shall be applied in accordance
10 with its terms unless there is a clear and convincing demonstration that
11 other factors affecting the general good of the State outweigh the
12 application of the measure or policy. The term shall not include
13 consideration of whether the affidavit of energy compliance should or
14 should not have been issued under 24 V.S.A. § 4352.

15 * * *

16 (5) With respect to an in-state facility, will not have an undue adverse
17 effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural
18 environment, the use of natural resources, and the public health and safety,
19 with due consideration having been given to the criteria specified in 10 V.S.A.
20 §§ 1424a(d) and 6086(a)(1) through (8) and ~~(9)(B), (9)(C), and~~ (9)(K),

1 impacts to primary agricultural soils as defined in 10 V.S.A. § 6001 and to
2 forest health and integrity, and greenhouse gas impacts.

3 * * *

4 (f) However, plans for the construction of such a facility within the State
5 must be submitted by the petitioner to the municipal and regional planning
6 commissions no less than 45 days prior to application for a certificate of public
7 good under this section, unless the municipal and regional planning
8 commissions shall waive such requirement.

9 (1) Such municipal or regional planning commission may hold a public
10 hearing on the proposed plans. Such commissions shall make
11 recommendations, if any, to the Public Service Board and to the petitioner at
12 least seven days prior to filing of the petition with the Public Service Board.

13 (2) The petitioner's application shall address the substantive written
14 comments related to the criteria of subsection (b) of this section received by
15 the petitioner within 45 days of the submittal made under this subsection and
16 the substantive oral comments related to those criteria made at a public hearing
17 under subdivision (1) of this subsection.

18 * * *

19 (t) Notwithstanding any contrary provision of the law, primary agricultural
20 soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric
21 generation facility approved under this section shall remain classified as such

1 soils, and the review of any change in use of the site subsequent to the
2 construction of the facility shall treat the soils as if the facility had never been
3 constructed. Each certificate of public good issued by the Board for a
4 ground-mounted solar generation facility shall state the contents of this
5 subsection.

6 **Sec. 14. RULES; PETITION**

7 ~~**(a) On or before August 1, 2016, the Department of Public Service**~~
8 ~~**shall file a petition for rulemaking with the Public Service Board**~~
9 ~~**containing proposed rules to implement Sec. 13 of this act, 30 V.S.A.**~~
10 ~~**§ 248(a)(6) (rules; aesthetic mitigation; decommissioning).**~~

11 ~~**(b) On or before October 15, 2016, the Public Service Board shall file**~~
12 ~~**proposed rules to Sec. 13 of this act, 30 V.S.A. § 248(a)(6) (rules; aesthetic**~~
13 ~~**mitigation; decommissioning), with the Secretary of State under 3 V.S.A.**~~
14 ~~**§ 838. The Board shall finally adopt such rules on or before June 15,**~~
15 ~~**2017, unless such deadline is extended by the Legislative Committee on**~~
16 ~~**Administrative Rules pursuant to 3 V.S.A. § 843(c).**~~

17 **Sec. 13. EXISTING WIND FACILITIES; RADAR-CONTROLLED**
18 **LIGHTING**

19 The Department of Public Service shall actively encourage the installation
20 of radar-controlled obstruction lights that meet the standards of the Federal
21 Aviation Administration (FAA) at each wind generation facility in existence as

1 of the effective date of this section for which the FAA requires obstruction
2 lighting. The Department shall work directly with the owner and operator of each
3 such facility to encourage this installation.

4 * * * Sound Standards ~~Docket; Energy; Wind Generation Facilities~~ * * *

5 Sec. 14. SOUND STANDARDS ~~DOCKET; COMPLETION; WIND~~
6 GENERATION

7 ~~(a) On or before October 1, 2016, the Public Service Board (the Board)~~
8 ~~shall issue a final decision in its pending Docket 8167, Investigation into~~
9 ~~the potential establishment of standards related to sound levels from the~~
10 ~~operation of generation, transmission, and distribution equipment by~~
11 ~~entities subject to Public Service Board jurisdiction (the docket). On~~
12 ~~issuance, the Board shall provide a copy of this final decision to the House~~
13 ~~and Senate Committees on Natural Resources and Energy, the Senate~~
14 ~~Committee on Finance, and the Joint Energy Committee.~~

15 ~~(b) Notwithstanding any contrary language in a prior Board order, the~~
16 ~~scope of this docket and the Board's final decision in the docket shall~~
17 ~~include the Board's recommendations on each of the following with~~
18 ~~respect to wind generation facilities and its plan for implementing those~~
19 ~~recommendations:~~

20 ~~(a) On or before September 15, 2017, the Public Service Board (the~~
21 ~~Board) shall finally adopt rules under 3 V.S.A. chapter 25 regarding~~

1 **sound from wind generation facilities approved under 30 V.S.A. § 248. As**
2 **used in this section:**

3 (1) “Audible sound” refers to sound at frequencies from 20 hertz
4 through 20 kilohertz.

5 (2) “Infrasound” refers to sound at frequencies less than 20 hertz.

6 **(b) The rules adopted pursuant to this section:**

7 **(1) Shall provide for:**

8 ~~(1)(A)~~ The maximum allowable instantaneous audible sound levels
9 for these facilities and the exterior and interior locations at which these levels
10 should apply. ~~In this section, “audible sound” refers to sound at~~
11 **frequencies from 20 hertz through 20 kilohertz.**

12 ~~(2)(B)~~ The maximum allowable average audible sound levels for
13 these facilities, the period over which these levels should be measured, and the
14 exterior and interior locations at which these levels should apply. In reviewing
15 this question, the Board shall consider whether the measurement period should
16 be less than one hour.

17 **(2) May satisfy the requirements of subdivision (1) of this**
18 **subsection by:**

19 **(A) standards that apply to all wind generation facilities;**

20 **(B) a methodology for determining sound levels and**
21 **measurement locations for each such facility on a case-by-case basis; or**

1 **(C) standards that apply to one or more categories of wind**
2 **generation facilities, with a methodology for determining sound levels and**
3 **measurement locations for other such facilities on a case-by-case basis.**

4 **(3)(c) The rules adopted under this section shall include standard**
5 **procedures for the monitoring of sound created by wind generation**
6 **facilities and the reporting of sound monitoring data to the Board and**
7 **Department of Public Service. The rules shall address the release of sound**
8 monitoring data to the public, including the timeliness of the release, the
9 release of raw data, and the availability of the data online. In reviewing this
10 question, the Board shall consider the existence and validity, if any, of
11 assertions that such data is proprietary or confidential.

12 **(4)(d) A The rules adopted under this section shall include a method**
13 **for determining a minimum setback requirement for each wind turbine, and**
14 **the location from which the setback should be measured ~~from the tower to~~**
15 **the nearest property line of the tract on which the turbine is located.**

16 **(5)(c) Whether In developing rules under this section, the Board shall**
17 **consider whether** there should be maximum allowable instantaneous or
18 average levels, or both, for infrasound from wind generation and, if so, ~~what~~
19 **they should be shall state those levels or provide a methodology for**
20 **determining those levels on a case-by-case basis and shall provide for how**

1 they should the levels shall be measured. In this section, “infrasound”
2 refers to sound at frequencies less than 20 hertz.

3 (c) Before issuing a final decision in the docket, the Board shall provide
4 each of the following:

5 (1) Notice of the issues described in subsection (b) of this section in
6 the same manner as the Board provided notice of its order opening the
7 docket.

8 (2) Opportunity for the existing docket parties and members of the
9 public to submit written information and request the conducting of a
10 workshop on these issues. The Board shall hold such a workshop if
11 requested and may hold one or more workshops on these issues on its own
12 initiative.

13 (f) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or
14 3 V.S.A. § 845, rules adopted under this section shall apply to applications
15 for certificate of public good under 30 V.S.A. § 248 filed on or after
16 April 15, 2016, regardless of whether such a certificate is issued prior to
17 the effective date of the rules.

1 ~~*** Allocation of AAFM Costs ***~~

2 ~~Sec. 17. 30 V.S.A. §§ 20 and 21 are amended to read:~~

3 ~~§ 20. PARTICULAR PROCEEDINGS; PERSONNEL~~

4 ~~(a)(1) The Board or Department may authorize or retain legal counsel,~~
5 ~~official stenographers, expert witnesses, advisors, temporary employees,~~
6 ~~and other research services:~~

7 ~~***~~

8 ~~(3) The Agency of Agriculture, Food and Markets may authorize or~~
9 ~~retain legal counsel, official stenographers, expert witnesses, advisors,~~
10 ~~temporary employees, other research, scientific, or engineering services~~
11 ~~to:~~

12 ~~(A) assist the Agency of Agriculture, Food and Markets in any~~
13 ~~proceeding under section 248 of this title; or~~

14 ~~(B) monitor compliance with an order issued under section 248 of~~
15 ~~this title.~~

16 ~~(4) The personnel authorized by this section shall be in addition to~~
17 ~~the regular personnel of the Board or Department or other State agencies;~~
18 ~~and in the case of the Department or other State agencies may be retained~~
19 ~~only with the approval of the Governor and after notice to the applicant~~
20 ~~or the public service company or companies. The Board or Department~~
21 ~~shall fix the amount of compensation and expenses to be paid such~~

1 ~~additional personnel, except that the Agency of Natural Resources or of~~
2 ~~Agriculture, Food and Markets, respectively, shall fix the amount of~~
3 ~~compensation and expenses to be paid to additional personnel that it~~
4 ~~retains under subdivision (2) of this subsection.~~

5 * * *

6 ~~§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS~~

7 ~~(a) The Board, the Department, or the Agency of Natural Resources~~
8 ~~An agency may allocate the portion of the expense incurred or authorized~~
9 ~~by it in retaining additional personnel for the particular proceedings~~
10 ~~authorized in pursuant to section 20 of this title to the applicant or the~~
11 ~~public service company or companies involved in those proceedings. As~~
12 ~~used in this section, “agency” means an agency, board, or department of~~
13 ~~the State enabled to authorize or retain personnel under section 20 of this~~
14 ~~title.~~

15 ~~(1) The Board shall upon petition of an applicant or public service~~
16 ~~company to which costs are proposed to be allocated, review and~~
17 ~~determine, after opportunity for hearing, having due regard for the size~~
18 ~~and complexity of the project, the necessity and reasonableness of such~~
19 ~~costs, and may amend or revise such allocations. Nothing in this section~~
20 ~~shall confer authority on the Board to select or decide the personnel, the~~
21 ~~expenses of whom are being allocated, unless such personnel are retained~~

1 ~~by the Board. Prior to allocating costs, the Board shall make a~~
2 ~~determination of the purpose and use of the funds to be raised hereunder,~~
3 ~~identify the recipient of the funds, provide for allocation of costs among~~
4 ~~companies to be assessed, indicate an estimated duration of the~~
5 ~~proceedings, and estimate the total costs to be imposed. With the~~
6 ~~approval of the Board, such estimates may be revised as necessary. From~~
7 ~~time to time during the progress of the work of such additional personnel,~~
8 ~~the Board, the Department, or the Agency of Natural Resources agency~~
9 ~~retaining the personnel shall render to the company detailed statements~~
10 ~~showing the amount of money expended or contracted for in the work of~~
11 ~~such personnel, which statements shall be paid by the applicant or the~~
12 ~~public service company into the State Treasury at such time and in such~~
13 ~~manner as the Board, the Department, or the Agency of Natural~~
14 ~~Resources agency may reasonably direct.~~

15 * * *

16 ~~(b) When regular employees of the Board, the Department, or the~~
17 ~~Agency of Natural Resources an agency are employed in the particular~~
18 ~~proceedings described in section 20 of this title, the Board, the~~
19 ~~Department, or the Agency of Natural Resources agency may also allocate~~
20 ~~the portion of their costs and expenses to the applicant or the public~~
21 ~~service company or companies involved in the proceedings. The costs of~~

1 ~~regular employees shall be computed on the basis of working days within~~
2 ~~the salary period. The manner of assessment and of making payments~~
3 ~~shall otherwise be as provided for additional personnel in subsection (a) of~~
4 ~~this section. However, with respect to proceedings under section 248 of~~
5 ~~this title, the Agency of Natural Resources shall not allocate the costs of~~
6 ~~regular employees.~~

7 * * *

8 ~~(e) On Annually on or before January 15, 2011, and annually~~
9 ~~thereafter, the Agency of Natural Resources and of Agriculture, Food and~~
10 ~~Markets each shall report to the Senate and House Committees on~~
11 ~~Natural Resources and Energy, the Senate Committee on Agriculture, and~~
12 ~~the House Committee on Agriculture and Forests Products the total~~
13 ~~amount of expenses allocated under this section during the previous fiscal~~
14 ~~year. The report shall include the name of each applicant or public~~
15 ~~service company to whom expenses were allocated and the amount~~
16 ~~allocated to each applicant or company.~~

17 * * *

1 ~~*** Public Assistance Officer ***~~

2 ~~Sec. 18. 30 V.S.A. § 3 is amended to read:~~

3 ~~§ 3. PUBLIC SERVICE BOARD~~

4 ~~(a) The public service board Public Service Board shall consist of a~~
5 ~~chairperson chair and two members. The chairperson Chair and each~~
6 ~~member shall not be required to be admitted to the practice of law in this~~
7 ~~state State.~~

8 ~~***~~

9 ~~(g) The chairperson Chair shall have general charge of the offices and~~
10 ~~employees of the board Board.~~

11 ~~(h) The Board shall employ a Public Assistance Officer (PAO) in~~
12 ~~accordance with this subsection.~~

13 ~~(1) The PAO shall facilitate citizen participation in and provide~~
14 ~~guidance to and answer questions from parties and members of the public~~
15 ~~on all matters under this title concerning the siting and construction of~~
16 ~~facilities in the State that generate or transmit electricity, constitute a~~
17 ~~meteorological station as defined in section 246 of this title, or constitute a~~
18 ~~natural gas facility as defined in subdivision 248(a)(3) of this title. As used~~
19 ~~in this section:~~

20 ~~(A) “Contested case” has the same meaning as in 3 V.S.A. § 801.~~

1 ~~(B) “Matter” means any proceeding before or by the Board,~~
2 ~~including an application for a certificate of public good, a petition for~~
3 ~~condemnation, rulemaking, and the issuance of guidance or procedures.~~

4 ~~(2) Guidance and information to be provided by the PAO shall~~
5 ~~include the following:~~

6 ~~(A) An explanation of the proceeding, including its purpose; its~~
7 ~~type, such as rulemaking or contested case; and the restrictions or lack of~~
8 ~~restrictions applicable to the type of proceeding, such as whether ex parte~~
9 ~~communications are prohibited.~~

10 ~~(B) Answers to procedural questions and direction to the statutes~~
11 ~~and rules applicable to the proceeding.~~

12 ~~(C) How to participate in the proceeding including, if necessary~~
13 ~~for participation, how to file a motion to intervene and how to submit~~
14 ~~prefiled testimony. The Board shall create forms and templates for~~
15 ~~motions to intervene, prefiled testimony, and other types of documents~~
16 ~~commonly filed with the Board, which the PAO shall provide to a person~~
17 ~~on request. The Board shall post these forms and templates on the~~
18 ~~Board’s website.~~

19 ~~(D) The responsibilities of intervenors and other parties.~~

20 ~~(E) The status of the proceeding. Examples of a proceeding’s~~
21 ~~status include: a petition has been filed; the proceeding awaits scheduling~~

1 ~~a prehearing conference or hearing; parties are conducting discovery or~~
2 ~~submitting prefiled testimony; hearings are concluded and parties are~~
3 ~~preparing briefs; and the proceeding is under submission to the Board~~
4 ~~and awaits a decision. For each proceeding in which the next action~~
5 ~~constitutes the issuance of an order, decision, or proposal for decision by~~
6 ~~the Board or a hearing officer, the Chair or assigned hearing officer shall~~
7 ~~provide the PAO with an expected date of issuance and the PAO shall~~
8 ~~provide this expected date to requesting parties or members of the public.~~

9 ~~(3) With respect to citizens representing themselves in proceedings~~
10 ~~within the scope of subdivision (1) of this subsection, the PAO shall:~~

11 ~~(A) Provide neutral advice and assistance on process and~~
12 ~~procedures.~~

13 ~~(B) Be available for in-person meetings.~~

14 ~~(C) Assist them in obtaining access to and use of all files, records,~~
15 ~~and data of the Board and the Department of Public Service that would be~~
16 ~~available to an attorney representing a party in the proceeding. The PAO~~
17 ~~shall have the right to such access and use.~~

18 ~~(4) The PAO shall conduct educational programs and produce~~
19 ~~educational materials to facilitate citizen participation in proceedings~~
20 ~~within the scope of subdivision (1) of this subsection.~~

1 ~~(5) For each proceeding within the scope of subdivision (1) of this~~
2 ~~subsection, the Board shall post, on its website, electronic copies of all~~
3 ~~filings and submissions to the Board and all orders of the Board.~~

4 ~~(6) The Board shall adopt rules or procedures to ensure that the~~
5 ~~communications of the PAO with the Board's members and other~~
6 ~~employees concerning contested cases do not contravene the requirements~~
7 ~~of the Administrative Procedure Act applicable to such cases.~~

8 ~~(7) The PAO shall have a duty to provide requesting parties and~~
9 ~~members of the public with information that is accurate to the best of the~~
10 ~~PAO's ability. The Board and its other employees shall have a duty to~~
11 ~~transmit accurate information to the PAO. However, the Board and any~~
12 ~~assigned hearing officer shall not be bound by statements of the PAO.~~

13 ~~(8) The PAO shall not be an advocate for any person before the~~
14 ~~Board and shall not have a duty to assist a person in the actual formation~~
15 ~~of the person's substantive position or arguments before the Board or the~~
16 ~~actions necessary to advance the person's position or arguments such as~~
17 ~~the actual preparation of motions, memoranda, or prefiled testimony.~~

18 ~~(9) The Board may assign secondary duties to the PAO that do not~~
19 ~~conflict with the PAO's execution of his or her duties under this~~
20 ~~subsection.~~

1 ~~Sec. 19. PUBLIC ASSISTANCE OFFICER; REPORT~~

2 ~~On or before January 1, 2018, the Public Assistance Officer (PAO)~~
3 ~~shall submit a written report to the House and Senate Committees on~~
4 ~~Natural Resources and Energy and the Senate Committee on Finance~~
5 ~~detailing the implementation of Sec. 18 of this act, including the number of~~
6 ~~persons assisted and the types of assistance rendered, the PAO's~~
7 ~~evaluation of the impact of this implementation on the ability of the~~
8 ~~persons assisted to participate effectively in Board proceedings, and the~~
9 ~~PAO's recommendations for future action to improve the ease of citizen~~
10 ~~participation in Board proceedings.~~

11 ~~Sec. 20. POSITION; APPROPRIATION~~

12 ~~The following classified position is created in the Public Service~~
13 ~~Board— one limited service, full-time Public Assistance Officer— for the~~
14 ~~purpose of Sec. 18 of this act. The position shall exist for two years~~
15 ~~following the date on which the Officer commences employment or until~~
16 ~~July 1, 2018, whichever is later. There is appropriated to the Public~~
17 ~~Service Board for fiscal year 2017 from the special fund described in 30~~
18 ~~V.S.A. § 22 the amount of \$100,000.00 for the purpose of this position.~~

1 ~~*** Regulatory and Financial Incentives; Preferred Locations ***~~

2 ~~Sec. 21. 30 V.S.A. § 8002(30) is added to read:~~

3 ~~(30) “Preferred location” means a site within the State on which a~~
4 ~~renewable energy plant will be located that is one of the following:~~

5 ~~(A) A new or existing structure, including a commercial or~~
6 ~~residential building, a parking lot, or parking lot canopy, whose primary~~
7 ~~use is not the generation of electricity or providing support for the~~
8 ~~placement of equipment that generates electricity.~~

9 ~~(B) A tract previously developed for a use other than siting a~~
10 ~~plant on which a structure or impervious surface was lawfully in existence~~
11 ~~and use prior to January 1 of the year in which an application for a~~
12 ~~certificate of public good under section 248 of this title for the plant is filed~~
13 ~~or in which the plant seeks an award of a contract under the standard~~
14 ~~offer program under section 8005a of this title, whichever is earlier. To~~
15 ~~qualify under this subdivision (B), the limits of disturbance of a proposed~~
16 ~~renewable energy plant must include either the existing structure or~~
17 ~~impervious surface and shall not include any headwaters, streams,~~
18 ~~shorelines, floodways, rare and irreplaceable natural areas, necessary~~
19 ~~wildlife habitat, wetlands, endangered species, productive forestlands, and~~
20 ~~primary agricultural soils, all of which are as defined in 10 V.S.A.~~
21 ~~chapter 151.~~

1 ~~(C) Land certified by the Secretary of Natural Resources to be a~~
2 ~~brownfield site as defined under 10 V.S.A. § 6642.~~

3 ~~(D) A sanitary landfill as defined in 10 V.S.A. § 6602, provided~~
4 ~~that the Secretary of Natural Resources certifies that the land constitutes~~
5 ~~such a landfill and is suitable for the development of the plant.~~

6 ~~(E) The disturbed portion of a gravel pit, quarry, or similar site~~
7 ~~for the extraction of a mineral resource, provided that all activities~~
8 ~~pertaining to site reclamation required by applicable law or permit~~
9 ~~condition are satisfied prior to the installation of the plant.~~

10 ~~(F) A specific location designated in a duly adopted municipal~~
11 ~~plan under 24 V.S.A. chapter 117 for the siting of a renewable energy~~
12 ~~plant or specific type or size of renewable energy plant, provided that the~~
13 ~~plant meets any siting criteria recommended in the plan for the location.~~
14 ~~On or after January 1, 2019, to qualify under this subdivision (F), the plan~~
15 ~~must be certified under 24 V.S.A. § 4352.~~

16 ~~(G) A site listed on the National Priorities List (NPL) established~~
17 ~~under the Comprehensive Environmental Response, Compensation, and~~
18 ~~Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection~~
19 ~~Agency or the Agency of Natural Resources confirms each of the~~
20 ~~following:~~

21 ~~(i) The site is listed on the NPL.~~

1 ~~annual increase) until the 127.5 MW cumulative plant capacity of this~~
2 ~~subsection is reached.~~

3 * * *

4 ~~(D) Pilot project; preferred locations. For a period of three years~~
5 ~~commencing on January 1, 2017:~~

6 ~~(i) The Board shall allocate the following portions of the~~
7 ~~annual increase to new standard offer plants that will be wholly located in~~
8 ~~one or more preferred locations other than parking lots or parking lot~~
9 ~~canopies:~~

10 ~~(I) one-sixth of the annual increase, during the first year;~~

11 ~~(II) one-quarter of the annual increase, during the second~~
12 ~~year; and~~

13 ~~(III) one-third of the annual increase, during the third year.~~

14 ~~(ii) The Board separately shall allocate the following portions~~
15 ~~of the annual increase to new standard offer plants that will be wholly~~
16 ~~located on parking lots or parking lot canopies:~~

17 ~~(I) one-sixth of the annual increase, during the first year;~~

18 ~~(II) one-quarter of the annual increase, during the second~~
19 ~~year; and~~

20 ~~(III) one-third of the annual increase, during the third year.~~

1 ~~price for plants outside the pilot project using the same generation~~
2 ~~technology.~~

3 ~~Sec. 23. STANDARD OFFER PILOT; REPORT~~

4 ~~On or before January 15, 2018, the Public Service Board shall file a~~
5 ~~report with the House Committee on Commerce and Economic~~
6 ~~Development, the Senate Committee on Finance, and the House and~~
7 ~~Senate Committees on Natural Resources and Energy on the progress~~
8 ~~of the standard offer pilot project on preferred locations authorized in~~
9 ~~Sec. 22 of this act. This report shall itemize the size, type of preferred~~
10 ~~location, generation technology, and cost per kilowatt hour of each~~
11 ~~application received under the pilot project and shall identify each~~
12 ~~generation facility approved under the pilot and the bill credit per~~
13 ~~kilowatt hour awarded to each such facility.~~

14 Sec. 15. 30 V.S.A. § 8010 is amended to read:

15 § 8010. SELF-GENERATION AND NET METERING

16 * * *

17 (c) In accordance with this section, the Board shall adopt and implement
18 rules that govern the installation and operation of net metering systems.

19 ~~(1) The rules shall establish and maintain a net metering program~~
20 ~~that:~~

21 * * *

1 ~~(G) accounts for changes over time in the cost of technology; and~~
2 ~~(H) allows a customer to retain ownership of the environmental~~
3 ~~attributes of energy generated by the customer’s net metering system and~~
4 ~~of any associated tradeable renewable energy credits or to transfer those~~
5 ~~attributes and credits to the interconnecting retail provider, and:~~

6 ~~(i) if the customer retains the attributes, reduces the value of~~
7 ~~the credit provided under this section for electricity generated by the~~
8 ~~customer’s net metering system by an appropriate amount; and~~

9 ~~(ii) if the customer transfers the attributes to the~~
10 ~~interconnecting provider, requires the provider to retain them for~~
11 ~~application toward compliance with sections 8004 and 8005 of this~~
12 ~~title; and~~

13 ~~(I) promotes the siting of net metering systems in preferred~~
14 ~~locations.~~

15 * * *

16 (3) The rules shall establish standards and procedures governing
17 application for and issuance or revocation of a certificate of public good for net
18 metering systems under the provisions of section 248 of this title. In
19 establishing these standards and procedures, ~~the rules:~~

1 (A) The rules may waive the requirements of section 248 of this title
2 that are not applicable to net metering systems, including criteria that are
3 generally applicable to public service companies as defined in this title;

4 (B) The rules may modify notice and hearing requirements of this
5 title as the Board considers appropriate;

6 (C) The rules shall seek to simplify the application and review
7 process as appropriate; ~~and~~.

8 (D) ~~with~~ With respect to net metering systems that exceed 150 kW in
9 plant capacity, shall apply the so-called “Quechee” test for aesthetic impact as
10 described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt.
11 515 (2002) (mem.). The rules and application form shall state the components
12 of this test.

13 (E) With respect to a net metering system exceeding 15 kW in plant
14 capacity, the rules shall not waive or include provisions that are less stringent
15 than the following, notwithstanding any contrary provision of law:

16 (i) the requirement of subdivision 248(a)(4)(C) of this title to
17 provide a copy of the application to the Agencies of Agriculture, Food and
18 Markets and of Natural Resources; the Department of Public Service; the
19 Division for Historic Preservation; the municipal legislative body; and the
20 municipality and regional planning commissions; ~~and~~

1 ~~section. In addition, the Board shall not allow a company to set aside~~
2 ~~funds collected from ratepayers for the purpose of supporting a future~~
3 ~~expansion or upgrade of its transmission or distribution network except~~
4 ~~after notice and opportunity for hearing and only if all of the following~~
5 ~~apply:~~

6 ~~(1) There is a cost estimate for the expansion or upgrade that the~~
7 ~~company demonstrates is consistent with the principles of least cost~~
8 ~~integrated planning as defined in section 218c of this title.~~

9 ~~(2) The amount of such funds does not exceed 10 percent of the~~
10 ~~estimated cost of the expansion or upgrade.~~

11 ~~(3) Interest earned on the funds is credited to the ratepayers.~~

12 ~~(4) The funds are not disbursed to the company until after~~
13 ~~expansion or upgrade is in service.~~

14 ~~(5) The funds are not used to defray any portion of the costs of~~
15 ~~expansion or upgrade in excess of the cost estimate described in~~
16 ~~subdivision (1) of this subsection.~~

17 * * * Municipal Electric Utilities; Hydro Facilities;

18 Renewable Energy Standard * * *

19 Sec. 16. 30 V.S.A. § 8005(a)(1) is amended to read:

20 (1) Total renewable energy.

1 in-state hydroelectric facility that the provider owns and that this reduction will
2 require the provider to purchase other renewable energy with environmental
3 attributes attached or tradeable renewable energy credits in order to meet this
4 required amount; and

5 (ii) this purchase will:

6 (I) cause the provider to increase significantly its retail rates; or

7 (II) materially impair the provider's ability to meet the public's
8 need for energy services after safety concerns are addressed, in the manner set
9 forth in subdivision 218c(a)(1)(least cost integrated planning) of this title;

10 * * * Access to Public Service Board Process * * *

11 **Sec. 17. ACCESS TO PUBLIC SERVICE BOARD WORKING**

12 **GROUP: REPORT**

13 (a) Creation. There is created an Access to Public Service Board Working
14 Group (the Working Group) to be composed of the following five members:

15 (1) One member of the Public Service Board (PSB), appointed by the
16 Chair of the PSB.

17 (2) The Commissioner of Public Service or designee.

18 (3) A judicial officer of the State, appointed by the Chief Justice of the
19 Supreme Court.

20 (4) A House member of the Joint Energy Committee established under
21 2 V.S.A. chapter 17, appointed by the Speaker of the House; and

1 13 (existing facilities; obstruction lighting), 14 (sound standards ~~docket;~~
2 ~~completion; wind generation)~~ and 17 (Access to Public Service Board
3 Working Group) shall take effect on passage. ~~The following in Secs. 2~~
4 ~~(planning goals), 8 (electrical energy planning), and 9 (comprehensive~~
5 ~~energy plan)~~ Sec. 6 (optional affidavit of energy compliance) shall apply on
6 passage to the activities of the Department of Public Service under Sec. 10:
7 ~~24 V.S.A. § 4302(c)(7) and 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).~~

8 ~~(2) In Sec. 18, 30 V.S.A. § 3(h)(5) (posting online; filings and orders)~~
9 ~~shall take effect on July 1, 2017.~~

10 ~~(3) Sec. 15 (net metering) shall take effect on January 2, 2017, and shall~~
11 ~~amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56,~~
12 ~~Sec. 12.~~

13
14
15 (Committee vote: _____)

16 _____
17 Representative _____
18 FOR THE COMMITTEE