

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~~ the  
13 development of renewable energy resources, and reduce emissions of  
14 greenhouse gases.

15 (A) General strategies for achieving these goals include increasing  
16 the energy efficiency of new and existing buildings; identifying appropriate  
17 areas for renewable energy generation; encouraging the use and development  
18 of renewable or lower emission energy sources for electricity, heat, and  
19 transportation; and reducing transportation energy demand and single  
20 occupancy vehicle use.

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

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

5           § 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING  
6           COMMISSIONS

7           Any regional planning commission created under this chapter may:

8                                               \* \* \*

9           (6) Undertake studies and make recommendations on land development,  
10           urban renewal, transportation, economic, industrial, commercial, and social  
11           development, urban beautification and design improvements, historic and  
12           scenic preservation, ~~the conservation of energy and the development of~~  
13           ~~renewable energy resources~~, State capital investment plans, and wetland  
14           protection.

15                                               \* \* \*

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

17           § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

18           A regional planning commission created under this chapter shall:

19                                               \* \* \*

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

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

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

4                                                    \* \* \*

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

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

8            (3) An energy element, which may include **an** analysis of energy  
9 resources, needs, scarcities, costs, and problems within the region; across all  
10 energy sectors, including electric, thermal, and transportation; a statement of  
11 policy on the conservation and efficient use of energy and the development and  
12 siting of renewable energy resources; ~~and;~~ a statement of policy on patterns  
13 and densities of land use ~~and control devices~~ likely to result in conservation of  
14 energy; and an identification of potential areas for the development and siting  
15 of renewable energy resources and areas that are **inappropriate unsuitable** for  
16 siting those resources or particular categories or sizes of those resources.

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

18 § 4352. OPTIONAL **AFFIDAVIT DETERMINATION OF ENERGY**

19                                                    COMPLIANCE; ENHANCED ENERGY PLANNING

20            (a) Regional plan. A regional planning commission may submit its adopted  
21 regional plan to the Commissioner of Public Service appointed under

1 30 V.S.A. § 1 for ~~an affidavit a determination~~ of energy compliance. The  
2 Commissioner shall issue such ~~an affidavit a determination in writing on~~  
3 finding that the regional plan meets the requirements of subsection (c) of this  
4 section and allows for the siting in the region of all types of renewable  
5 generation technologies.

6 (b) Municipal plan. If the Commissioner of Public Service has issued ~~an~~  
7 ~~affidavit a determination of energy compliance~~ for a regional plan that is in  
8 effect, a municipal legislative body within the region may submit its adopted  
9 municipal plan to the regional planning commission for ~~issuance of an~~  
10 ~~affidavit a determination~~ of energy compliance. The regional planning  
11 commission shall issue such ~~an affidavit a determination in writing~~, signed  
12 by the chair of the regional planning commission, on finding that the municipal  
13 plan meets the requirements of subsection (c) of this section and is consistent  
14 with the regional plan.

15 (c) Enhanced energy planning; requirements. To obtain ~~an affidavit a~~  
16 ~~determination~~ of energy compliance under this section, a plan must:

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

19 (2) in the case of a municipal plan, include the energy element as  
20 described in subdivision 4382(a)(9) of this title and be confirmed under section  
21 4350 of this title;

1           (3) be consistent with the following, **with consistency determined in**  
2 **the manner described under subdivision 4302(f)(1) of this title:**

3           (A) Vermont’s greenhouse gas reduction goals under 10 V.S.A.  
4 § 578(a);

5           (B) Vermont’s 25 by 25 goal for renewable energy under 10 V.S.A.  
6 § 580;

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

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

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

16           (4) meet the standards for issuing **an affidavit a determination of**  
17 energy compliance included in the State energy plans.

18           (d) State energy plans; recommendations; standards.

19           (1) The State energy plans shall include the recommendations for  
20 regional and municipal energy planning and the standards for issuing **an**

1 **affidavit a determination** of energy compliance described in subdivision  
2 (c)(3) of this section.

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

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

11 (A) increasing the energy efficiency of new and existing buildings;

12 (B) identifying appropriate areas for renewable energy generation;

13 (C) encouraging the use and development of renewable or other  
14 energy sources for electricity, heat, and transportation that result in reduced  
15 emissions; and

16 (D) reducing transportation energy demand and single occupancy  
17 vehicle use.

18 (4) The Commissioner of Public Service shall provide the  
19 Commissioner of Housing and Community Development with a copy of the  
20 recommendations and standards developed under this subsection for inclusion

1 in the planning and land use manual prepared pursuant to section 4304 of this  
2 title.

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

18 **(f) Appeal.** A regional planning commission aggrieved by an act or  
19 decision of the Commissioner of Public Service under this section may appeal  
20 to the hearing panel established by this subsection within 30 days of the act or  
21 decision.

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

2           (A) A member appointed by the Vermont Association of Planning  
3           and Development Agencies.

4           (B) A member appointed by the Vermont League of Cities and  
5           Towns.

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

7           (D) A member appointed by the Secretary of Natural Resources.

8           **(E) Other member?**

9           (2) A member of the hearing panel shall not be an employee of the  
10           Department of Public Service (DPS). The provisions of 12 V.S.A. § 61  
11           (disqualification for interest) shall apply to the members of the hearing panel.

12           (3) The hearing panel shall conduct a de novo hearing on the act or  
13           decision under appeal and shall proceed in accordance with the contested case  
14           requirements of the Vermont Administrative Procedure Act. The hearing panel  
15           shall issue a final decision within 90 days of the filing of the appeal.

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

18           (g) Municipal **affidavit determination** from DPS; time-limited option.  
19           Until July 1, 2018, a municipality whose plan has been confirmed under  
20           section 4350 of this title may seek issuance of **an affidavit a determination of**  
21           energy compliance from the Commissioner of Public Service if it is a member



1 of a regional planning commission whose regional plan has not received such  
2 **an affidavit a determination.**

3 (1) The Commissioner shall issue **an affidavit a determination** of  
4 energy compliance for the municipal plan on finding that the plan meets the  
5 requirements of subsection (c) of this section. The Commissioner’s review of  
6 the municipal plan shall be for the purpose only of determining whether **an**  
7 **affidavit a determination** of energy compliance should be issued because  
8 those requirements are met.

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

12 (h) **Affidavit Determination**; time period. **An affidavit A determination**  
13 of energy compliance issued pursuant to this section shall remain in effect until  
14 the end of the period for expiration or readoption of the plan to which it  
15 applies.

16 (i) Commissioner; consultation. In the discharge of the duties assigned  
17 under this section, the Commissioner may consult with and shall be entitled to  
18 receive the assistance of the Secretaries of Agriculture, Food and Markets; of  
19 Commerce and Community Development; of Natural Resources; and of  
20 Transportation.

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

2 (9) An energy plan, including analysis of energy resources, needs,  
3 scarcities, costs, and problems within the municipality; across all energy  
4 sectors, including electric, thermal, and transportation; a statement of policy on  
5 the conservation and efficient use of energy, including programs, such as  
6 thermal integrity standards for buildings, to implement that policy; a statement  
7 of policy on the development and siting of renewable energy resources; and a  
8 statement of policy on patterns and densities of land use likely to result in  
9 conservation of energy.

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

11 § 202. ELECTRICAL ENERGY PLANNING

12 \* \* \*

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

19 \* \* \*

20 (4) a detailed exposition, including capital requirements and the  
21 estimated cost to consumers, of how such demand shall be met based on the

1 assumptions made in subdivision (1) of this subsection and the policies set out  
2 in subsection (c) of this section; ~~and~~

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

9 (6) recommendations for regional and municipal energy planning and  
10 standards for issuing ~~an affidavit a determination~~ of energy compliance  
11 pursuant to 24 V.S.A. § 4352.

12 (c) In developing the Plan, the Department shall take into account the  
13 protection of public health and safety; preservation of environmental quality;  
14 the relevant goals of 24 V.S.A. § 4302; the potential for reduction of rates paid  
15 by all retail electricity customers; the potential for reduction of electrical  
16 demand through conservation, including alternative utility rate structures; use  
17 of load management technologies; efficiency of electrical usage; utilization of  
18 waste heat from generation; and utility assistance to consumers in energy  
19 conservation.

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

21 (1) Consult with:

- 1 (A) the public;
- 2 (B) Vermont municipal utilities and planning commissions;
- 3 (C) Vermont cooperative utilities;
- 4 (D) Vermont investor-owned utilities;
- 5 (E) Vermont electric transmission companies;
- 6 (F) environmental and residential consumer advocacy groups active
- 7 in electricity issues;
- 8 (G) industrial customer representatives;
- 9 (H) commercial customer representatives;
- 10 (I) the Public Service Board;
- 11 (J) an entity designated to meet the public’s need for energy
- 12 efficiency services under subdivision 218c(a)(2) of this title;
- 13 (K) other interested State agencies; ~~and~~
- 14 (L) other energy providers; and
- 15 (M) the regional planning commissions.

16 \* \* \*

17 (e) The Department shall conduct public hearings on the final draft and  
18 shall consider the evidence presented at such hearings in preparing the final  
19 Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in  
20 accordance with this section by every sixth January + 15 thereafter, and shall  
21 be submitted to the General Assembly each time the plan is adopted or

1 readopted. The provisions of 2 V.S.A. § 20(d)(expiration of required reports)  
2 shall not apply to the submission to be made under this subsection.

3 \* \* \*

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

6 \* \* \*

7 (j) For the purpose of assisting in the development of municipal and  
8 regional plans under 24 V.S.A. chapter 117, the Director shall, on request,  
9 provide municipal and regional planning commissions with publicly available  
10 information detailing the location of electric transmission and distribution  
11 infrastructure in the relevant municipality or region and the capacity of that  
12 infrastructure to accept additional electric generation facilities without  
13 modification. In providing this information, the Director shall be entitled to  
14 the assistance of the electric utilities that own electric transmission or  
15 distribution systems, or both, located in Vermont, including the ability to  
16 obtain from those utilities such data as the Director considers necessary to  
17 discharge his or her duties under this subsection.

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

19 § 202b. STATE COMPREHENSIVE ENERGY PLAN

20 (a) The Department of Public Service, in conjunction with other State  
21 agencies designated by the Governor, shall prepare a State Comprehensive

1 Energy Plan covering at least a 20-year period. The Plan shall seek to  
2 implement the State energy policy set forth in section 202a of this title and  
3 shall be consistent with the relevant goals of 24 V.S.A. § 4302. The Plan shall  
4 include:

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

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

11 (3) recommendations for regional and municipal energy planning and  
12 standards for issuing ~~an affidavit a determination~~ of energy compliance  
13 pursuant to 24 V.S.A. § 4352.

14 \* \* \*

15 (c) The Department shall adopt a State Energy Plan on or before January 1,  
16 2016 and shall readopt the Plan by every sixth January ~~4~~ 15 thereafter. On  
17 adoption or readoption, the Plan shall be submitted to the General Assembly.  
18 The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not  
19 apply to such submission.

20 \* \* \*

1 **Sec. 10. INITIAL IMPLEMENTATION; RECOMMENDATIONS;**  
2 **STANDARDS**

3 (a) On or before November 1, 2016, the Department of Public Service shall  
4 publish recommendations and standards in accordance with 24 V.S.A. § 4352  
5 as enacted by Sec. 6 of this act. Prior to issuing these recommendations and  
6 standards, the Department shall post on its website a draft set of initial  
7 recommendations and standards and provide notice and an opportunity to  
8 comment and request a public hearing to all persons listed in 30 V.S.A.  
9 § 202(d)(1). The Commissioner may elect to hold one or more public hearings  
10 on the Commissioner’s own initiative.

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

17 Sec. 11. TRAINING

18 Following publication of the recommendations and standards under  
19 Sec. 10(a) of this act, the Department of Public Service shall conduct a series  
20 of training sessions in locations across the State for municipal and regional  
21 planning commissions to assist them in the development of municipal and

1 regional plans that are eligible to receive ~~an affidavit~~ a determination of  
2 energy compliance under Sec. 6 of this act, 24 V.S.A. § 4352. The Department  
3 shall develop and present these ~~workshops~~ sessions in collaboration with the  
4 Vermont League of Cities and Towns and the Vermont Association of  
5 Planning and Development Agencies. The Department shall ensure that all  
6 municipal and regional planning commissions receive prior notice of the  
7 workshops.

8 \* \* \* Siting Process; Criteria; Conditions \* \* \*

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

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

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

13 \* \* \*

14 (2) Except for the replacement of existing facilities with equivalent  
15 facilities in the usual course of business, and except for electric generation  
16 facilities that are operated solely for on-site electricity consumption by the  
17 owner of those facilities and for hydroelectric generation facilities subject to  
18 licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12,  
19 subchapter 1:

20 (A) no company, as defined in section 201 of this title, and no person,  
21 as defined in 10 V.S.A. § 6001(14), may begin site preparation for or



1 construction of an electric generation facility or electric transmission facility  
2 within the State which is designed for immediate or eventual operation at any  
3 voltage; and

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

8 \* \* \*

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

13 \* \* \*

14 (C) At the time of filing its application with the Board, copies shall  
15 be given by the petitioner to the Attorney General and the Department of  
16 Public Service, and, with respect to facilities within the State, the Department  
17 of Health, Agency of Natural Resources, Historic Preservation Division,  
18 Agency of Transportation, Agency of Agriculture, Food and Markets, and to  
19 the chair or director of the municipal and regional planning commissions and  
20 the municipal legislative body for each town and city in which the proposed  
21 facility will be located.

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\* \* \*

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

(F) The Agency of Agriculture, Food and Markets shall have the right to appear and participate in proceedings held under this subsection.

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

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

(I) When a person has the right to appear and participate in a proceeding before the Board under this chapter, the person may exercise this

1 right by filing a letter with the Board stating that the person appears through  
2 the person’s duly authorized representative, signed by that representative.

3 (J) With respect to an application for an electric generation facility  
4 with a capacity that is greater than 50 kilowatts, and in addition to any other  
5 information required by the Board, the application shall include information  
6 that delineates:

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

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

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

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

20 (5) The Board shall adopt rules regarding standard conditions on  
21 postconstruction inspection and maintenance of aesthetic mitigation and on

1 decommissioning to be included in certificates of public good for in-state  
2 facilities approved under this section. The purpose of these standard  
3 conditions shall be to ensure that all required aesthetic mitigation is performed  
4 and maintained and that facilities are removed once they are no longer in  
5 service.

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

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

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

20 (7) When a certificate of public good under this section or amendment  
21 to such a certificate is issued for an in-state electric generation facility, the

1 certificate holder within 45 days shall record a notice of the certificate or  
2 amended certificate, on a form prescribed by the Board, in the land records of  
3 each municipality in which a facility subject to the certificate is located and  
4 shall submit proof of this recording to the Board. The recording under this  
5 subsection shall be indexed as though the certificate holder were the grantor of  
6 a deed. The prescribed form shall not exceed one page and shall require  
7 identification of the land on which the facility is to be located by reference to  
8 the conveyance to the current landowner, the number of the certificate, and the  
9 name of each person to which the certificate was issued, and shall include  
10 information on how to contact the Board to view the certificate and supporting  
11 documents.

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

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

20 However:

1           (A) ~~with~~ With respect to a natural gas transmission line subject to  
2 Board review, the line shall be in conformance with any applicable provisions  
3 concerning such lines contained in the duly adopted regional plan; and, in  
4 addition, upon application of any party, the Board shall condition any  
5 certificate of public good for a natural gas transmission line issued under this  
6 section so as to prohibit service connections that would not be in conformance  
7 with the adopted municipal plan in any municipality in which the line is  
8 located; ~~and~~.

9           (B) ~~with~~ With respect to a ground-mounted solar electric generation  
10 facility, the facility shall comply with the screening requirements of a  
11 municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance  
12 adopted under 24 V.S.A. § 2291(28), and the recommendation of a  
13 municipality applying such a bylaw or ordinance, unless the Board finds that  
14 requiring such compliance would prohibit or have the effect of prohibiting the  
15 installation of such a facility or have the effect of interfering with the facility's  
16 intended functional use.

17           (C) With respect to an in-state **electric generation** facility, the Board  
18 shall give substantial deference to the land conservation measures and specific  
19 policies contained in a duly adopted regional and municipal plan that has  
20 received **an affidavit a determination** of energy compliance under 24 V.S.A.  
21 § 4352. In this subdivision (C), “substantial deference” means that a land

1 conservation measure or specific policy shall be applied in accordance with its  
2 terms unless there is a clear and convincing demonstration that other factors  
3 affecting the general good of the State outweigh the application of the measure  
4 or policy. The term shall not include consideration of whether the **affidavit**  
5 **determination** of energy compliance should or should not have been issued  
6 under 24 V.S.A. § 4352.

7 \* \* \*

8 (5) With respect to an in-state facility, will not have an undue adverse  
9 effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural  
10 environment, the use of natural resources, and the public health and safety,  
11 with due consideration having been given to the criteria specified in 10 V.S.A.  
12 §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary  
13 agricultural soils as defined in 10 V.S.A. § 6001 and to forest health and  
14 integrity, and greenhouse gas impacts.

15 \* \* \*

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





1       Sec. 13. EXISTING WIND FACILITIES; RADAR-CONTROLLED  
2                   LIGHTING

3           The Department of Public Service shall actively encourage the installation  
4           of radar-controlled obstruction lights that meet the standards of the Federal  
5           Aviation Administration (FAA) at each wind generation facility in existence as  
6           of the effective date of this section for which the FAA requires obstruction  
7           lighting. The Department shall work directly with the owner and operator of each  
8           such facility to encourage this installation.

9                   \* \* \* Sound Standards; Wind Generation Facilities \* \* \*

10       Sec. 14. SOUND STANDARDS; WIND GENERATION

11       (a) On or before September 15, 2017, the Public Service Board (the Board)  
12       finally shall adopt rules under 3 V.S.A. chapter 25 regarding sound from wind  
13       generation facilities approved under 30 V.S.A. § 248. As used in this section:

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

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

17       (b) The rules adopted pursuant to this section:

18           (1) Shall provide for:

19                   (A) The maximum allowable **instantaneous** audible sound levels for  
20       these facilities and the exterior and interior locations at which these levels  
21       should apply.

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

6           (2) May satisfy the requirements of subdivision (1) of this  
7           subsection by:

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

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

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

14           (c) The rules adopted under this section shall include standard procedures  
15           for the monitoring of sound created by wind generation facilities and the  
16           reporting of sound monitoring data to the Board and Department of Public  
17           Service. The rules shall address the release of sound monitoring data to the  
18           public, including the timeliness of the release, the release of raw data, and the  
19           availability of the data online. In reviewing this question, the Board shall  
20           consider the existence and validity, if any, of assertions that such data are  
21           proprietary or confidential.

1 (d) The rules adopted under this section shall include a method for  
2 determining a minimum setback requirement for each wind turbine and the  
3 location from which the setback should be measured.

4 (e) In developing rules under this section, the Board shall consider whether  
5 there should be maximum allowable instantaneous or average levels, or both,  
6 for infrasound from wind generation and, if so, shall state those levels or  
7 provide a methodology for determining those levels on a case-by-case basis  
8 and shall provide for how the levels shall be measured.

9 (f) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or  
10 3 V.S.A. § 845, rules adopted under this section shall apply to an application  
11 for a certificate of public good under 30 V.S.A. § 248 filed on or after  
12 April 15, 2016, regardless of whether such a certificate is issued prior to the  
13 effective date of the rules.

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 \* \* \*

20 (3) The rules shall establish standards and procedures governing  
21 application for and issuance or revocation of a certificate of public good for net

1 metering systems under the provisions of section 248 of this title. In  
2 establishing these standards and procedures, ~~the rules~~:

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

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

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

10 (D) ~~with~~ With respect to net metering systems that exceed 150 kW in  
11 plant capacity, shall apply the so-called “Quechee” test for aesthetic impact as  
12 described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt.  
13 515 (2002) (mem.). The rules and application form shall state the components  
14 of this test.

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

18 (i) the requirement of subdivision 248(a)(4)(C) of this title to  
19 provide a copy of the application to the Agencies of Agriculture, Food and  
20 Markets and of Natural Resources; the Department of Public Service; the

1 Division for Historic Preservation; the municipal legislative body; and the  
2 municipality and regional planning commissions;

3 (ii) the requirements of subsection 248(f) (preapplication  
4 submittal) of this title; and

5 (iii) with respect to a net metering system exceeding 50 kW in  
6 capacity, the requirements of subdivision 248(a)(4)(J) (required information)  
7 of this title.

8 \* \* \*

9 (e) If a hydroelectric generation plant seeking approval as a net metering  
10 system is subject to licensing jurisdiction under the Federal Power Act,  
11 16 U.S.C. chapter 12, subchapter 1, the Board shall require the plant to obtain  
12 such approval through means other than by application for a certificate of  
13 public good under section 248 of this title.

14 \* \* \* Municipal Electric Utilities; Hydro Facilities;

15 Renewable Energy Standard \* \* \*

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

17 (1) Total renewable energy.

18 (A) Purpose; establishment. To encourage the economic and  
19 environmental benefits of renewable energy, this subdivision establishes, for  
20 the RES, minimum total amounts of renewable energy within the supply  
21 portfolio of each retail electricity provider. To satisfy this requirement, a

1 provider may use renewable energy with environmental attributes attached or  
2 any class of tradeable renewable energy credits generated by any renewable  
3 energy plant whose energy is capable of delivery in New England.

4 (B) Required amounts. The amounts of total renewable energy  
5 required by this subsection shall be 55 percent of each retail electricity  
6 provider's annual retail electric sales during the year beginning on January 1,  
7 2017, increasing by an additional four percent each third January 1 thereafter,  
8 until reaching 75 percent on and after January 1, 2032.

9 \* \* \*

10 (D) Municipal providers; petition. On petition by a provider that is a  
11 municipal electric utility serving not more than 6,000 customers, the Board  
12 may reduce the provider's required amount under this subdivision (1) for a  
13 period of up to three years. The Board may approve one such period only for  
14 a municipal provider. The Board may reduce this required amount if it  
15 finds that:

16 (i) the terms or conditions of an environmental permit or  
17 certification necessitate a reduction in the electrical energy generated by an  
18 in-state hydroelectric facility that the provider owns and that this reduction will  
19 require the provider to purchase other renewable energy with environmental  
20 attributes attached or tradeable renewable energy credits in order to meet this  
21 required amount; and

1                    (ii) this purchase will:  
2                    (I) cause the provider to increase significantly its retail rates; or  
3                    (II) materially impair the provider’s ability to meet the public’s  
4                    need for energy services after safety concerns are addressed, in the manner set  
5                    forth in subdivision 218c(a)(1)(least cost integrated planning) of this title;

6                    \* \* \* Access to Public Service Board Process \* \* \*

7                    Sec. 17. ACCESS TO PUBLIC SERVICE BOARD WORKING

8                    GROUP: REPORT

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

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

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

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

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

18                    (5) A Senate member of the Joint Energy Committee established under  
19                    2 V.S.A. chapter 17, appointed by the Committee on Committees.

1           (b) Powers and duties; term.

2                       (1) The Working Group shall review the current processes for citizen  
3 participation in PSB proceedings and shall make recommendations to promote  
4 increased ease of citizen participation in those proceedings.

5                       (2) On or before December 15, 2016, the Working Group shall submit  
6 its written recommendations to the House and Senate Committees on Natural  
7 Resources and Energy, the Senate Committee on Finance, and the Joint Energy  
8 Committee.

9                       (3) The Working Group shall have the administrative, technical, and  
10 legal assistance of the staff of the PSB.

11                      (4) The appointed member of the PSB shall call the first meeting of the  
12 Working Group to occur on or before July 1, 2016. At the first meeting, the  
13 Working Group shall elect a chair from among its members.

14                      (5) The Working Group shall cease to exist on February 1, 2017.

15                                           \* \* \* Effective Dates \* \* \*

16       Sec. 18. EFFECTIVE DATES

17           This act shall take effect on July 1, 2016, except that:

18                      (1) This section and Secs. 10 (initial implementation; recommendations;  
19 standards), 12 (30 V.S.A. § 248), 13 (existing facilities; obstruction lighting),  
20 14 (sound standards; wind generation) and 17 (Access to Public Service Board  
21 Working Group) shall take effect on passage. Sec. 6 (optional **affidavit**



1 determination of energy compliance) shall apply on passage to the activities  
2 of the Department of Public Service under Sec. 10.

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

6

7

8 (Committee vote: \_\_\_\_\_)

9

10

\_\_\_\_\_  
Representative \_\_\_\_\_

11

FOR THE COMMITTEE