

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 **suitable** for renewable energy generation; encouraging the use and
18 development of renewable or lower emission energy sources for electricity,
19 heat, and transportation; and reducing transportation energy demand and single
20 occupancy vehicle use.

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

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

13 (c) Enhanced energy planning; requirements. To obtain a determination of
14 energy compliance under this section, a plan must:

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

17 (2) in the case of a municipal plan, include ~~the an~~ energy element ~~that~~
18 **has the same components** as described in subdivision ~~4382(a)(9)~~ **4348a(a)(3)**
19 of this title **for a regional plan** and be confirmed under section 4350 of this
20 title;

1 (3) be consistent with the following, with consistency determined in the
2 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 a determination of energy compliance
17 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 a

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

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

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

12 ~~(A) increasing the energy efficiency of new and existing~~
13 ~~buildings;~~

14 ~~(B) identifying appropriate areas for renewable energy~~
15 ~~generation;~~

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

19 ~~(D) reducing transportation energy demand and single~~
20 ~~occupancy vehicle use.~~

1 **(4) In developing standards and recommendations under this**
2 **subsection, the Commissioner of Public Service shall consult with all**
3 **persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of**
4 **Agriculture, Food and Markets, of Commerce and Community**
5 **Development, of Natural Resources, and of Transportation; and other**
6 **affected persons.**

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

12 (e) Process for issuing determinations of energy compliance. Review of
13 whether to issue a determination of energy compliance under this section shall
14 include a public hearing noticed at least 15 days in advance by direct mail to
15 the requesting regional planning commission or municipal legislative body,
16 posting on the website of the entity from which the determination is requested,
17 and publication in a newspaper of general publication in the region or
18 municipality affected. The Commissioner or regional planning commission
19 shall issue the determination within two months of the receipt of a request for a
20 determination. If the determination is negative, the Commissioner or regional
21 planning commission shall state the reasons for denial in writing and, if

1 appropriate, suggest acceptable modifications. Submissions for a new
2 determination that follow a negative determination shall receive a new
3 determination within 45 days.

4 (f) Appeal. A regional planning commission aggrieved by an act or
5 decision of the Commissioner of Public Service under this section may appeal
6 to the hearing panel established by this subsection within 30 days of the act or
7 decision.

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

9 (A) A member **and alternate** appointed by the Vermont Association
10 of Planning and Development Agencies. **The initial terms of this member**
11 **and alternate shall be three years.**

12 (B) A member **and alternate** appointed by the Vermont League of
13 Cities and Towns. **The initial terms of this member and alternate shall be**
14 **two years.**

15 (C) A member **and alternate** appointed by the Commissioner of
16 Public Service. **The initial terms of this member and alternate shall be**
17 **three years.**

18 (2) **Following initial terms, the appointing authority shall point a**
19 **member and alternate for terms of three years. The appointing authority**
20 **may reappoint a member or alternate.**

1 (3) The hearing panel shall elect a chair from among its members,
2 excluding alternates. An member may designate his or her alternate to
3 serve if the member is disqualified or otherwise unavailable to serve. If
4 the chair is disqualified or unavailable to serve on a matter, the members

5 (4) A member of the hearing panel shall not be an employee of the
6 Department of Public Service (DPS). The provisions of 12 V.S.A. § 61
7 (disqualification for interest) shall apply to the members of the hearing panel.

8 (5) The hearing panel shall conduct a de novo hearing on the act or
9 decision under appeal and shall proceed in accordance with the contested case
10 requirements of the Vermont Administrative Procedure Act. The hearing panel
11 shall issue a final decision within 90 days of the filing of the appeal.

12 (7) The hearing panel shall be entitled to the professional and
13 administrative assistance of **the Office of the Attorney General.**

14 (g) Municipality; determination from DPS; time-limited option. Until July
15 1, 2018, a municipality whose plan has been confirmed under section 4350 of
16 this title may seek issuance of a determination of energy compliance from the
17 Commissioner of Public Service if it is a member of a regional planning
18 commission whose regional plan has not received such a determination.

19 (1) The Commissioner shall issue a determination of energy compliance
20 for the municipal plan on finding that the plan meets the requirements of
21 subsection (c) of this section. The Commissioner’s review of the municipal

1 plan shall be for the purpose only of determining whether a determination of
2 energy compliance should be issued because those requirements are met.

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

6 (h) Determination; time period. An affirmative determination of energy
7 compliance issued pursuant to this section shall remain in effect until the end
8 of the period for expiration or readoption of the plan to which it applies.

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

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

15 **~~(9) An energy plan, including analysis of energy resources, needs,~~**
16 **~~scarcities, costs, and problems within the municipality, across all energy~~**
17 **~~sectors, including electric, thermal, and transportation; a statement of~~**
18 **~~policy on the conservation and efficient use of energy, including programs,~~**
19 **~~such as thermal integrity standards for buildings, to implement that~~**
20 **~~policy; a statement of policy on the development and siting of renewable~~**

1 ~~energy resources, and a statement of policy on patterns and densities of~~
2 ~~land use likely to result in conservation of energy.~~

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

4 § 202. ELECTRICAL ENERGY PLANNING

5 * * *

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

12 * * *

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

17 (5) specific strategies for reducing electric rates to the greatest extent
18 possible in Vermont over the most immediate six-year period, for the next
19 succeeding six-year period, and long-term sustainable strategies for achieving
20 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) recommendations for regional and municipal energy planning and
4 standards for issuing a determination of energy compliance pursuant to
5 24 V.S.A. § 4352.

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

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

15 (1) Consult with:

16 (A) the public;

17 (B) Vermont municipal utilities and planning commissions;

18 (C) Vermont cooperative utilities;

19 (D) Vermont investor-owned utilities;

20 (E) Vermont electric transmission companies;

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

3 (G) industrial customer representatives;

4 (H) commercial customer representatives;

5 (I) the Public Service Board;

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

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

9 (L) other energy providers; and

10 (M) the regional planning commissions.

11 * * *

12 (e) The Department shall conduct public hearings on the final draft and
13 shall consider the evidence presented at such hearings in preparing the final
14 Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in
15 accordance with this section by every sixth January 4 15 thereafter, and shall
16 be submitted to the General Assembly each time the plan is adopted or
17 readopted. The provisions of 2 V.S.A. § 20(d)(expiration of required reports)
18 shall not apply to the submission to be made under this subsection.

19 * * *

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

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* * *

(j) For the purpose of assisting in the development of 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 obtain from those utilities such **publicly available** data as the Director considers necessary to discharge his or her duties under this subsection.

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

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

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

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

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

7 (3) recommendations for regional and municipal energy planning and
8 standards for issuing a determination of energy compliance pursuant to 24
9 V.S.A. § 4352.

10 * * *

11 (c) The Department shall adopt a State Energy Plan on or before January 1,
12 2016 and shall readopt the Plan by every sixth January ~~±~~ 15 thereafter. On
13 adoption or readoption, the Plan shall be submitted to the General Assembly.
14 The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not
15 apply to such submission.

16 * * *

17 Sec. 10. INITIAL IMPLEMENTATION; RECOMMENDATIONS;

18 STANDARDS

19 (a) On or before November 1, 2016, the Department of Public Service shall
20 publish recommendations and standards in accordance with 24 V.S.A. § 4352

1 as enacted by Sec. 6 of this act. Prior to issuing these recommendations and
2 standards, the Department shall **perform each of the following:**

3 **(1) Consult with all persons identified under 30 V.S.A. § 202(d)(1);**
4 **the Secretaries of Agriculture, Food and Markets, of Commerce and**
5 **Community Development, of Natural Resources, and of Transportation;**
6 **and other affected persons.**

7 **(2) Post** on its website a draft set of initial recommendations and
8 standards.

9 **(3) Provide** notice and an opportunity to comment and request a public
10 hearing to all persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may
11 elect to hold one or more public hearings on the Commissioner's own
12 initiative.

13 **(b) In addition to the requirements of Sec. 6 of this act, the standards**
14 **developed under this section shall address the following elements in a**
15 **manner consistent with the State energy plans adopted pursuant to 30**
16 **V.S.A. §§ 202 and 202b:**

17 **(1) analysis of total current energy use across transportation,**
18 **heating, and electric sectors;**

19 **(2) identification and mapping of **existing energy generation** and**
20 **renewable resources;**

1 **(3) establishment of 2025, 2035, and 2050 targets for energy**
2 **conservation, efficiency, fuel-switching, and use of renewable energy for**
3 **transportation, heating, and electricity;**

4 **(4) analysis of amount of thermal-sector conservation, efficiency,**
5 **and conversion to alternative heating fuels needed to achieve these targets;**

6 **(5) analysis of transportation system changes and land use strategies**
7 **needed to achieve these targets;**

8 **(6) analysis of electric-sector conservation and efficiency needed to**
9 **achieve these targets;**

10 **(7) pathways and recommended actions to achieve these targets,**
11 **informed by this analysis;**

12 **(8) identification of potential areas for the development and siting of**
13 **renewable energy resources, taking into account factors including but not**
14 **limited to resource availability, environmental constraints, and the**
15 **location and capacity of electric grid infrastructure, and including**
16 **potential generation from resources in the identified areas; and**

17 **(9) identification of areas, if any, that are unsuitable for siting those**
18 **resources or particular categories or sizes of those resources.**

19 (c) On publication under subsection (a) of this section, the specific
20 recommendations and standards shall be considered an appendix to the
21 currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this

1 publication, the Department may revise these recommendations and standards
2 in accordance with the procedures for adopting and revising plans under those
3 statutes.

4 Sec. 11. TRAINING

5 Following publication of the recommendations and standards under
6 Sec. 10(a) of this act, the Department of Public Service shall conduct a series
7 of training sessions in locations across the State for municipal and regional
8 planning commissions to assist them in the development of municipal and
9 regional plans that are eligible to receive a determination of energy compliance
10 under Sec. 6 of this act, 24 V.S.A. § 4352. The Department shall develop and
11 present these sessions in collaboration with the Vermont League of Cities and
12 Towns and the Vermont Association of Planning and Development Agencies.
13 The Department shall ensure that all municipal and regional planning
14 commissions receive prior notice of the ~~workshops~~ sessions.

15 * * * Siting Process; Criteria; Conditions * * *

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

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

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

20 * * *

1 (C) At the time of filing its application with the Board, copies shall
2 be given by the petitioner to the Attorney General and the Department of
3 Public Service, and, with respect to facilities within the State, the Department
4 of Health, Agency of Natural Resources, Historic Preservation Division,
5 Agency of Transportation, Agency of Agriculture, Food and Markets, and to
6 the chair or director of the municipal and regional planning commissions and
7 the municipal legislative body for each town and city in which the proposed
8 facility will be located.

9 * * *

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

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

17 (G) The regional planning commission for the region in which the
18 facility is located shall have the right to appear as a party in any proceedings
19 held under this subsection. The regional planning commission of an adjacent
20 region shall have the same right if the **distance of the facility's nearest**
21 **component is located within 500 feet of** to the boundary of that planning

1 commission is 500 feet or 10 times the height of the facility's tallest
2 component, whichever is greater.

3 (H) The legislative body and the planning commission for the
4 municipality in which a facility is located shall have the right to appear as a
5 party in any proceedings held under this subsection. The legislative body and
6 planning commission of an adjacent municipality shall have the same right if
7 the distance of the facility's nearest component is located within 500 feet of
8 to the boundary of that adjacent municipality is 500 feet or 10 times the
9 height of the facility's tallest component, whichever is greater.

10 (I) When a person has the right to appear as a party in a proceeding
11 before the Board under this chapter, the person may exercise this right by filing
12 a letter with the Board stating that the person appears through the person's duly
13 authorized representative, signed by that representative.

14 (J) This subdivision applies to an application for an electric
15 generation facility with a capacity that is greater than 50 kilowatts, unless
16 the facility is located on a new or existing structure the primary purpose
17 of which is not the generation of electricity. In addition to any other
18 information required by the Board, the application for such a facility shall
19 include information that delineates:

20 (i) the full limits of physical disturbance due to the construction
21 and operation of the facility and related infrastructure, including areas

1 disturbed due to the creation or modification of access roads and utility lines
2 and the clearing or management of vegetation;

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

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

8 (iv) all impacts of the facility's construction and operation under
9 subdivision (b)(5) of this section, including impacts due to the creation or
10 modification of access roads and utility lines and the clearing or management
11 of vegetation.

12 (5) The Board shall adopt rules regarding standard conditions on
13 postconstruction inspection and maintenance of aesthetic mitigation and on
14 decommissioning to be included in certificates of public good for in-state
15 facilities approved under this section. The purpose of these standard
16 conditions shall be to ensure that all required aesthetic mitigation is performed
17 and maintained and that facilities are removed once they are no longer in
18 service.

19 (6) The Board shall require any in-state wind electric generation facility
20 receiving a certificate of public good to install radar-controlled obstruction
21 lights on all wind turbines for which the Federal Aviation Administration

1 (FAA) requires obstruction lights, ~~provided if the facility includes four or~~
2 ~~more wind turbines and~~ the FAA allows the use of radar-controlled lighting
3 technology.

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

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

13 (7) When a certificate of public good under this section or amendment
14 to such a certificate is issued for an in-state electric generation facility, the
15 certificate holder within 45 days shall record a notice of the certificate or
16 amended certificate, on a form prescribed by the Board, in the land records of
17 each municipality in which a facility subject to the certificate is located and
18 shall submit proof of this recording to the Board. The recording under this
19 subsection shall be indexed as though the certificate holder were the grantor of
20 a deed. The prescribed form shall not exceed one page and shall require
21 identification of the land on which the facility is to be located by reference to

1 the conveyance to the current landowner, the number of the certificate, and the
2 name of each person to which the certificate was issued, and shall include
3 information on how to contact the Board to view the certificate and supporting
4 documents.

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

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

13 However:

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

1 the substantive oral comments related to those criteria made at a public hearing
2 under subdivision (1) of this subsection.

3 * * *

4 (t) Notwithstanding any contrary provision of the law, primary agricultural
5 soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric
6 generation facility approved under this section shall remain classified as such
7 soils, and the review of any change in use of the site subsequent to the
8 construction of the facility shall treat the soils as if the facility had never been
9 constructed. Each certificate of public good issued by the Board for a
10 ground-mounted solar generation facility shall state the contents of this
11 subsection.

12 ~~Sec. 13. EXISTING WIND FACILITIES; RADAR-CONTROLLED~~
13 ~~———— LIGHTING~~

14 ~~The Department of Public Service shall actively encourage the~~
15 ~~installation of radar-controlled obstruction lights that meet the standards~~
16 ~~of the Federal Aviation Administration (FAA) at each wind generation~~
17 ~~facility in existence as of the effective date of this section for which the~~
18 ~~FAA requires obstruction lighting. The Department shall work directly~~
19 ~~with the owner and operator of each such facility to encourage this~~
20 ~~installation.~~

21 * * * Sound Standards; Wind Generation Facilities * * *

1 Sec. 14. SOUND STANDARDS; WIND GENERATION

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

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

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

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

9 (1) Shall provide for:

10 (A) The maximum allowable instantaneous audible sound levels
11 for these facilities and the exterior and interior locations at which these
12 levels should apply.

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

18 (2) May satisfy the requirements of subdivision (1) of this
19 subsection by: In developing these rules, the Board shall consider:

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

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

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

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

15 ~~**(d) The rules adopted under this section shall include a method for**~~
16 ~~**determining a minimum setback requirement for each wind turbine and**~~
17 ~~**the location from which the setback should be measured.**~~

18 ~~**(e) In developing rules under this section, the Board shall consider**~~
19 ~~**whether there should be maximum allowable instantaneous or average**~~
20 ~~**levels, or both, for infrasound from wind generation and, if so, shall state**~~

1 ~~those levels or provide a methodology for determining those levels on a~~
2 ~~case-by-case basis and shall provide for how the levels shall be measured.~~

3 (f) (b) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or
4 3 V.S.A. § 845, rules adopted under this section shall apply to an application
5 for a certificate of public good under 30 V.S.A. § 248 filed on or after
6 April 15, 2016, regardless of whether such a certificate is issued prior to the
7 effective date of the rules.

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

9 § 8010. SELF-GENERATION AND NET METERING

10 * * *

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

13 * * *

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

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

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

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

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

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

14 (i) ~~with respect to a net metering system exceeding 15 kW in~~
15 ~~capacity:~~

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 (II) the requirements of subsection 248(f) (preapplication
2 submittal) of this title; and

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

6 * * *

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

12 * * * Municipal Electric Utilities; Hydro Facilities;

13 Renewable Energy Standard * * *

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

15 (1) Total renewable energy.

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

1 any class of tradeable renewable energy credits generated by any renewable
2 energy plant whose energy is capable of delivery in New England.

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

8 * * *

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

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

21 (ii) this purchase will:

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

5 * * * Access to Public Service Board Process * * *

6 Sec. 17. ACCESS TO PUBLIC SERVICE BOARD WORKING

7 GROUP: REPORT

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

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

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

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

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

17 (5) A Senate member of the Joint Energy Committee established under
18 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 determination

1 of energy compliance) shall apply on passage to the activities of the
2 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