

ANR proposed language 4.28.15

1 Introduced by Committee on Natural Resources and Energy

2 Date:

3 Subject: Energy; public service; facility siting; renewable generation; net
4 metering systems; standard offer

5 Statement of purpose of bill as introduced: This bill proposes amendments that
6 would affect the review of proposed energy and utility facilities before the
7 Public Service Board and provisions to encourage appropriate siting of these
8 facilities through the net metering and standard offer programs.

9 An act relating to siting of energy and utility facilities

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

11 * * * Siting Review * * *

12 Sec. 1. 30 V.S.A. § 248(a)(4) is amended to read:

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

19 (C) At the time of filing its application with the Board, copies shall
20 be given by the petitioner to the Attorney General and the Department of

ANR proposed language 4.28.15

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

9 (D) Notice of the public hearing shall be published and maintained
10 on the Board's website for at least 12 days before the day appointed for the
11 hearing. Notice of the public hearing shall be published once in a newspaper
12 of general circulation in the county or counties in which the proposed facility
13 will be located, and the notice shall include an Internet address where more
14 information regarding the proposed facility may be viewed.

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

20 (F) The legislative body and the planning commission for the
21 municipality in which a facility is located shall have the right to appear as a

ANR proposed language 4.28.15

1 party in any proceedings held under this subsection and may provide evidence
2 and recommendations concerning any matters to be determined by the Board in
3 such a proceeding.

4 (G) If requested by the owner of property adjoining a proposed
5 facility, the Board shall allow the owner to participate without being accorded
6 the status of a party. The Board may limit the participation of an owner
7 making such a request to the filing of memoranda, proposed findings of fact
8 and conclusions of law, and argument on legal issues. However, the Board
9 may expand such an owner's participation to include the provision of
10 testimony, the filing of evidence, or the cross-examination of witnesses.

11 Sec. 2. 30 V.S.A. § 248(r) is added to read:

12 (r) When issuing a certificate of public good under this section for a
13 generation facility with a capacity greater than 150 kilowatts, the Board shall
14 include a condition on decommissioning that at a minimum assigns
15 responsibility to the owner for decommissioning of the facility after it is
16 removed from service and states the period following removal from service by
17 which the facility shall be decommissioned.

18 Sec. 3. AESTHETICS REVIEW BY PUBLIC SERVICE BOARD;

19 AVERAGE PERSON

20 This section clarifies existing law. As part of any analysis under 30 V.S.A.
21 chapter 5 of whether a facility will have an undue adverse effect on aesthetics,

ANR proposed language 4.28.15

1 the Public Service Board shall consider whether the facility will have an
2 adverse effect on aesthetics when viewed from adjoining properties or from
3 other land owned by a party, and, if so, whether that effect will be undue, and
4 shall not exclude those views from the consideration of whether the facility
5 will be shocking or offensive to the average person.

6 * * * Solar Parks, Neighborhood Solar Facilities, and Preferred Siting * * *

7 Sec. 4. 30 V.S.A. § 8002(18) is amended to read:

8 (18) "Plant" means an independent technical facility that generates
9 electricity from renewable energy. A group of facilities, such as wind turbines,
10 shall be considered one plant if the group is part of the same project and uses
11 common equipment and infrastructure such as roads, control facilities, and
12 connections to the electric grid. Common ownership, contiguity in time of
13 construction, and proximity of facilities to each other shall be relevant to
14 determining whether a group of facilities is part of the same project. However,
15 if a tract constitutes a solar park, solar net metering systems with a cumulative
16 plant capacity that does not exceed five MW may be colocated on the tract and
17 retain eligibility for treatment as net metering systems in accordance with
18 section 8010 of this title regardless of whether they would otherwise constitute
19 a single plant under this subdivision.

ANR proposed language 4.28.15

1 Sec. 5. 30 V.S.A. § 8002(28) and (29) are added to read:

2 (28) "Neighborhood solar facility" means a facility for the generation of
3 electricity from solar energy that:

4 (A) is a group net metering system that does not exceed 150 kW in
5 plant capacity;

6 (B) has offered or will offer membership to each owner of property
7 adjoining the tract on which the proposed facility will be located; and

8 (C) will allocate at least 50 percent of the bill credits it generates
9 among the retail electricity bills of customers within a five-mile radius of the
10 tract on which the system will be located, the municipality in which the system
11 will be located or adjoining municipality, or a school within the school district
12 in which the system will be located.

13 (29) "Solar park" means a tract of land that:

14 (A) is designated in a municipal plan adopted under 24 V.S.A.
15 chapter 117 for the colocation of solar renewable energy plants with a
16 cumulative plant capacity of not less than one MW;

17 (B) is well-oriented for access to the sun;

18 (C) is sufficiently free from obstacles that would hinder such access;

19 (D) has vehicular access from a State highway as defined in
20 19 V.S.A. § 1 or a class 1, 2, or 3 town highway as defined in 19 V.S.A.
21 § 302(a); and

ANR proposed language 4.28.15

1 (E) is in close proximity to three-phase power.

(F) avoids to the extent feasible the inclusion of "important natural resources" as defined in subdivision 2791(14) of Title 24.

2 Sec. 6. 30 V.S.A. § 8010(c)(2) is amended to read:

3 (2) The rules shall include provisions that govern:

4 ***

5 (E) the formation of group net metering systems, the resolution of
6 disputes between group net metering customers and the interconnecting
7 provider, and the billing, crediting, and disconnection of group net metering
8 customers by the interconnecting provider; and

9 (F) the amount of the bill credit to be assigned to each kWh of
10 electricity generated by a net metering customer in excess of the electricity
11 supplied by the interconnecting provider to the customer, the manner in which
12 the customer's credit will be applied on the customer's bill, and the period
13 during which a net metering customer must use the credit, after which the
14 credit shall revert to the interconnecting provider; and

15 (G) the ownership and transfer of the environmental attributes of
16 energy generated by net metering systems and of any associated tradeable
17 renewable energy credits. When assigning an amount of credit under this
18 subdivision (F):

19 (i) The Board shall provide an amount of credit for a net metering
20 system to be located in a solar park that is lower than the amount that the

ANR proposed language 4.28.15

1 system would receive if located outside a solar park, taking into consideration
2 economies of scale and any other relevant factor;

3 (ii) The Board shall provide an amount of credit for a net metering
4 system that is higher than the amount the system would otherwise receive if the
5 system:

6 (I) satisfies the criteria of 30 V.S.A § 248, including the natural
7 resource criteria set forth in 248(b)5, and complies with all applicable
8 environmental laws, rule and permits as set forth in 10 V.S.A. § 8003(a); and

8 (II) is a neighborhood solar facility; or

9 (III) will be wholly located on a gravel pit, a quarry, a rooftop,
10 a canopy for vehicular parking, a sanitary landfill as defined in 10 V.S.A.
11 § 6602, or a brownfield site as defined in 10 V.S.A. § 6642.

12 (iii) The Board shall consider making multiple lengths of time
13 available over which a customer may take a credit and differentiating the
14 amount according to the length of time chosen. For example, a credit amount
15 may be higher if taken over 10 years and lower if taken over 20 years. Factors
16 relevant to this consideration shall include the customer's ability to finance the
17 net metering system, the cost of that financing, and the net present value to all
18 ratepayers of the net metering program.

19 Sec. 7. ADDITIONAL STANDARD OFFER: SITING PILOT

20 (a) In this section, terms shall have the same meaning as in 30 V.S.A.
21 § 8002.

(b) This section authorizes a pilot project on encouraging appropriate siting
through the Standard Offer Program established under 30 V.S.A. chapter 89.

ANR proposed language 4.28.15

1 (c) In 2017, the Public Service Board shall offer through the Standard Offer
2 Program three MW of plant capacity in addition to the annual amount to be
3 offered that year under 30 V.S.A. § 8005a(c). This additional three MW shall
4 not count toward the cumulative capacity established by that subsection.

5 (d) The additional three MW of plant capacity shall be offered to renewable
6 energy plants using solar energy that:

7 (1) satisfy the criteria of 30 V.S.A § 248, including the natural resource
8 criteria set forth in 248(b)5, and comply with all applicable environmental laws,
9 rule and permits as set forth in 10 V.S.A. § 8003(a); and

10 (2) are installed on rooftops or canopies for vehicular parking, including
11 proposals that aggregate these solar plants; or

12 (3) are wholly located on a gravel pit, a quarry, a sanitary landfill as
13 defined in 10 V.S.A. § 6602, or a brownfield site as defined in 10 V.S.A.
14 § 6642.

15 (e) Except as inconsistent with this section, the provisions of 30 V.S.A.
16 § 8005a shall apply to the pilot project authorized under this section.

17 * * * Notice for Small Solar Net Metering Systems * * *

18 Sec. 8. 30 V.S.A. § 219a(c) is amended to read:

19 (c) The Board shall establish by rule or order standards and procedures
20 governing application for, and issuance or revocation of a certificate of public
21 good for net metering systems under the provisions of section 248 of this title.

A net metering system shall be deemed to promote the public good of the State
if it is in compliance with the criteria of this section and board Board rules or
orders. In developing such rules or orders:

ANR proposed language 4.28.15

1 (1) With respect to a solar net metering system of 15 kW or less, the
2 Board shall provide that the system may be installed ten days after the
3 customer's submission to the Board and, the interconnecting electric company,
4 and the municipality of a completed registration form and certification of
5 compliance with the applicable interconnection requirements. Within that
6 ten-day period, the interconnecting electric company and the municipality each
7 may deliver to the customer and the Board a letter detailing that, in the case of
8 the interconnecting utility, details any issues concerning the interconnection of
9 the system or, in the case of the municipality, addresses the compliance of the
10 facility with land conservation measures in the adopted municipal land use
11 plan. The customer shall not commence construction of the system prior to the
12 passage of this ten-day period and, if applicable, resolution by the Board of any
13 interconnection issues raised by the electric company or the municipality in
14 accordance with this subsection. If the ten-day period passes without delivery
15 by the electric company or the municipality of a letter that raises
16 interconnection issues in accordance with this subsection, a certificate of
17 public good shall be deemed issued on the 11th day without further
18 proceedings, findings of fact, or conclusions of law, and the customer may
19 commence construction of the system. On request, the Clerk of the Board
20 promptly shall provide the customer with written evidence of the system's
21 approval. For the purpose of In this subdivision, the following shall not be

ANR proposed language 4.28.15

1 included in the computation of time: Saturdays, Sundays, State legal holidays
2 under 1 V.S.A. § 371(a), and federal legal holidays under 5 U.S.C. § 6103(a).

3 ***

4 * * * Membership; Multiple Group Net Metering Systems * * *

5 Sec. 9. 30 V.S.A. § 219a(g) is amended to read:

6 (g)(1) In addition to any other requirements of section 248 of this title and
7 this section and Board rules thereunder, before a group net metering system
8 including more than one meter may be formed and served by an electric
9 company, the proposed group net metering system shall file with the Board,
10 with copies to the department Department and the serving electric company,
11 the following information:

12 ***

13 (7) A customer may enroll in more than one group net metering system
14 at one time. A customer enrolled in multiple group net metering systems at
15 one time shall not receive credit allocations for energy generation that exceeds
16 the customer's anticipated consumption of energy supplied by the service
17 electric company.

18 Sec. 10. MEMBERSHIP IN MULTIPLE NET METERING GROUPS

19 (a) In Public Service Board Rule 5.105 (Billing Standards and Procedures),
20 subdivision (B), the sentence "Individual customer accounts may be enrolled in

ANR proposed language 4.28.15

1 only one group net metering arrangement at one time." is struck and a new
2 provision is inserted in lieu thereof to read:

3 "Individual customer accounts may enroll in more than one group net
4 metering arrangement at one time. Any allocation of credits for energy
5 generation to a customer enrolled in multiple group net metering arrangements
6 shall not exceed the customer's anticipated consumption of energy supplied by
7 the service electric company."

8 (b) On or before August 1, 2015, the Public Service Board shall conform
9 the published version of the rules described in this section to the requirements
10 of subsection (a) of this section. Provided that the only revision to those rules
11 is the change required by subsection (a) of this section, the rulemaking
12 procedures of the Vermont Administrative Procedure Act shall not apply to the
13 publication of this conformed version of the rules. However, on publication,
14 the Board shall send a copy of the conformed version of the rules to the Office
15 of the Secretary of State and the Legislative Committee on Administrative
16 Rules.

17 Sec. 11. EFFECTIVE DATES

18 (a) This section and Secs. 3 (aesthetics review), 9 (group net metering
19 systems), and 10 (membership; group net metering systems), and 11 shall take
20 effect on passage.

ANR proposed language 4.28.15

1 (b) Secs. 1 (in-state facility), 2 (decommissioning), 7 (additional standard
2 offer; siting pilot), and 8 (notice, solar net metering systems) shall take effect
3 on July 1, 2015.

4 (c) Secs. 4 (plant) and 5 (neighborhood solar facility; solar park) shall
5 amend 30 V.S.A. § 8002 as added effective January 1, 2017 by 2014 Acts and
6 Resolves No. 99, Sec. 3. Sec. 6 (net metering credits) shall amend 30 V.S.A.
7 § 8010 as added effective January 1, 2017 by 2014 Acts and Resolves No. 99,
8 Sec. 4. Secs. 4 through 6 shall take effect on January 2, 2017, except that,
9 notwithstanding 1 V.S.A. § 214, these sections shall apply to the Public
10 Service Board process under 2014 Acts and Resolves No. 99, Sec. 5.