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S.230

Senators ___ move to amend the further proposal of amendment offered by Senators Bray, Campion, MacDonald, Riehle, and Rodgers as follows:

First: In the seventh proposal of amendment, in Sec. 10a (planning support; allocation of costs), in subsection (b), by striking out “disbursing” and inserting in lieu thereof awarding

Second: By striking out the eighth proposal of amendment in its entirety and inserting in lieu thereof a new eighth proposal of amendment to read:

Eighth: In Sec. 11, 30 V.S.A. § 248, in subsection (a), by striking out subdivisions (4) through (6) in their entirety and inserting in lieu thereof new subdivisions (4) through 6 to read:

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

* * *

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

1 the chair or director of the municipal and regional planning commissions and
2 the municipal legislative body for each town and city in which the proposed
3 facility will be located.

4 * * *

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

10 (F) The following shall apply to the participation of the Agency of
11 Agriculture, Food and Markets in proceedings held under this subsection:

12 (i) In any proceeding regarding an electric generation facility that
13 will have a capacity greater than 500 kilowatts and will be sited on a tract
14 containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
15 Agency shall appear as a party and provide evidence and recommendations
16 concerning any findings to be made under subdivision (b)(5) of this section on
17 those soils, and may provide evidence and recommendations concerning any
18 other matters to be determined by the Board in such a proceeding.

19 (ii) In a proceeding other than one described in subdivision (i) of
20 this subsection (4)(F), the Agency shall have the right to appear and
21 participate.

1 (G) The regional planning commission for the region in which the
2 facility is located shall have the right to appear as a party in any proceedings
3 held under this subsection. The regional planning commission of an adjacent
4 region shall have the same right if the distance of the facility's nearest
5 component to the boundary of that planning commission is 500 feet or
6 10 times the height of the facility's tallest component, whichever is greater.

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

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

18 (J) This subdivision (J) applies to an application for an electric
19 generation facility with a capacity that is greater than 50 kilowatts, unless the
20 facility is located on a new or existing structure the primary purpose of which
21 is not the generation of electricity. In addition to any other information

1 required by the Board, the application for such a facility shall include
2 information that delineates:

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

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

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

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

16 (5) The Board shall adopt rules regarding standard conditions on
17 postconstruction inspection and maintenance of aesthetic mitigation and on
18 decommissioning to be included in certificates of public good for in-state
19 facilities approved under this section. The purpose of these standard
20 conditions shall be to ensure that all required aesthetic mitigation is performed

1 and maintained and that facilities are removed once they are no longer in
2 service.

3 (6) In any certificate of public good issued under this section for an
4 in-state plant as defined in section 8002 of this title that generates electricity
5 from wind, the Board shall require the plant to install radar-controlled
6 obstruction lights on all wind turbines for which the Federal Aviation
7 Administration (FAA) requires obstruction lights, if the plant includes four or
8 more wind turbines and the FAA allows the use of radar-controlled lighting
9 technology.

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

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

19 Third: By striking out the ninth proposal of amendment in its entirety and
20 inserting in lieu thereof a new ninth proposal of amendment to read:

1 Ninth: In Sec. 11, 30 V.S.A. § 248, in subsection (b), by striking out
2 subdivision (5) and inserting in lieu thereof a new subdivision (5) to read:

3 (5) With respect to an in-state facility, will not have an undue adverse
4 effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural
5 environment, the use of natural resources, and the public health and safety,
6 with due consideration having been given to the criteria specified in 10 V.S.A.
7 §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary
8 agricultural soils as defined in 10 V.S.A. § 6001 and to forest health and
9 integrity, and greenhouse gas impacts.

10 Fourth: In the eleventh proposal of amendment, in Sec. 12 (sound
11 standards; wind generation), in subsection (b), after the first sentence, by
12 inserting:

13 The Board shall condition each certificate of public good issued for a wind
14 generation facility on compliance with the rules to be issued under this section.

15 Fifth: After the thirteenth proposal of amendment, by adding a fourteenth
16 proposal of amendment to read:

17 Fourteenth: After Sec. 15a, by inserting a reader guide and Sec. 15b to
18 read:

19 * * * Regulated Energy Utility Expansion Funds * * *

20 Sec. 15b. 30 V.S.A. § 218d(d) is amended to read:

1 (d) Alternative regulation may include such changes or additions to,
2 waivers of, or alternatives to, traditional rate-making procedures, standards,
3 and mechanisms, including substantive changes to rate base-rate of return rate
4 setting, as the ~~board~~ Board finds will promote the public good and will support
5 the required findings in subsection (a) of this section. In addition, the Board
6 shall not allow a company to set aside funds collected from ratepayers for the
7 purpose of supporting a future expansion or upgrade of its transmission or
8 distribution network except after notice and opportunity for hearing and only if
9 all of the following apply:

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

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

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

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

18 (5) The funds are not used to defray any portion of the costs of
19 expansion or upgrade in excess of the cost estimate described in subdivision

20 (1) of this subsection.

- 1 and by renumbering the remaining proposal of amendment to be numerically
- 2 correct.