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S.230

Senator Rodgers moves that the bill be amended as follows:

First: After Sec. 3, by inserting Sec. 3a to read:

Sec. 3a. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; FINDINGS OF FACT

(a) The forms, pleadings, and rules of practice and procedure before the Board shall be prescribed by it. The Board shall adopt rules which include, among other things, provisions that:

(1) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file with the Board all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the Board, a utility shall not be permitted to introduce into evidence in its direct case exhibits which are not filed in accordance with this rule.

(2) A prehearing conference shall be ordered in every contested rate case. At such conference it may require the ~~state~~ State or any person opposing such rate increase to specify what items shown by the filed exhibits are conceded. Further proof of conceded items shall not be required.

1 (viii) The drilling of an oil and gas well.

2 * * *

3 (xi) The construction of improvements for the purpose of
4 generating electric capacity or energy or other electricity products for sale or of
5 improvements for a net metering system as defined in 30 V.S.A. § 8002. As
6 used in this subdivision (xi), the word “development” shall:

7 (I) also include the construction of improvements ancillary to
8 the electric generation, such as buildings, foundations, electric distribution
9 lines, and all means of ingress and egress to the electric generation; and

10 (II) exclude an electric generation facility that is exempt under
11 subdivision (3)(D)(ii)(I) of this section.

12 * * *

13 (D) The word “development” does not include:

14 (i) The construction of improvements for farming, logging, or
15 forestry purposes below the elevation of 2,500 feet.

16 (ii) The construction of improvements for:

17 (I) an electric generation ~~or~~ facility if the facility’s primary
18 purpose is to address a reliability deficiency identified in a least cost integrated
19 plan or a transmission system plan approved under 30 V.S.A. § 218c;

20 (II) an electric transmission facility that requires a certificate of
21 public good under 30 V.S.A. § 248;

1 Sec. 6b. 24 V.S.A. § 4413(b) is amended to read:

2 (b) A bylaw under this chapter shall not regulate:

3 (1) a public utility power generating plants and plant the plant's primary
4 purpose is to address a reliability deficiency identified in a least cost integrated
5 plan or a transmission system plan approved under 30 V.S.A. § 218c; or

6 (2) public utility transmission facilities regulated under 30 V.S.A. § 248.

7 Sec. 6c. 30 V.S.A. § 248 is amended to read:

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

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

11 * * *

12 (2) Except for the replacement of existing facilities with equivalent
13 facilities in the usual course of business, ~~and except for electric generation~~
14 ~~facilities that are operated solely for on-site electricity consumption by the~~
15 ~~owner of those facilities:~~

16 (A) no company, as defined in section 201 of this title, and no person,
17 as defined in 10 V.S.A. § 6001(14), may begin site preparation for or
18 construction of an electric generation facility that is exempt from 10 V.S.A.
19 chapter 151 or electric transmission facility within the State which is designed
20 for immediate or eventual operation at any voltage; and

1 with the adopted municipal plan in any municipality in which the line is
2 located; and

3 (B) ~~with respect to a ground-mounted solar electric generation~~
4 ~~facility, shall comply with the screening requirements of a municipal bylaw~~
5 ~~adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under~~
6 ~~24 V.S.A. § 2291(28), and the recommendation of a municipality applying~~
7 ~~such a bylaw or ordinance, unless the Board finds that requiring such~~
8 ~~compliance would prohibit or have the effect of prohibiting the installation of~~
9 ~~such a facility or have the effect of interfering with the facility's intended~~
10 ~~functional use. [Repealed.]~~

11 (2) Is required to meet the need for present and future demand for
12 service which could not otherwise be provided in a more cost-effective manner
13 through energy conservation programs and measures and energy-efficiency
14 and load management measures, including those developed pursuant to the
15 provisions of subsection 209(d), section 218c, and subsection 218(b) of this
16 title. In determining whether this criterion is met, the Board shall assess the
17 environmental and economic costs of the purchase, investment, or construction
18 in the manner set out under subdivision 218c(a)(1)(least cost integrated plan)
19 of this title and, as to a generation facility, shall consider whether the facility
20 will avoid, reduce, or defer transmission or distribution system investments.

21 * * *

1 ~~The Department of Public Service shall submit recommendations relating to~~
2 ~~the proposed plant, and shall make available to the General Assembly all~~
3 ~~relevant material. The requirements of this subsection shall be in addition to~~
4 ~~the findings set forth in subsection (b) of this section.~~

5 ~~(2) No nuclear energy generating plant within this State may be operated~~
6 ~~beyond the date permitted in any certificate of public good granted pursuant to~~
7 ~~this title, including any certificate in force as of January 1, 2006, unless the~~
8 ~~General Assembly approves and determines that the operation will promote the~~
9 ~~general welfare, and until the Public Service Board issues a certificate of~~
10 ~~public good under this section. If the General Assembly has not acted under~~
11 ~~this subsection by July 1, 2008, the Board may commence proceedings under~~
12 ~~this section and under 10 V.S.A. chapter 157, relating to the storage of~~
13 ~~radioactive material, but may not issue a final order or certificate of public~~
14 ~~good until the General Assembly determines that operation will promote the~~
15 ~~general welfare and grants approval for that operation. [Repealed.]~~

16 * * *

17 (k)(1) Notwithstanding any other provisions of this section, the Board may
18 waive, for a specified and limited time, the applicable prohibitions contained in
19 this section and 10 V.S.A. chapter 151 upon site preparation for or construction
20 of an electric transmission facility or a generation facility necessary to assure

1 ensure the stability or reliability of the electric system or a natural gas facility,
2 pending full review under this section.

3 (2) A person seeking a waiver under this subsection shall file a petition
4 with the Board and shall provide copies to the Department of Public Service,
5 the Natural Resources Board, and the Agency of Natural Resources. Upon
6 receiving the petition, the Board shall conduct an expedited preliminary
7 hearing, upon such notice to the governmental bodies listed in subdivision
8 (a)(4)(C) of this section and the Natural Resources Board as the Board may
9 require.

10 (3) An order granting a waiver may include terms, conditions, and
11 safeguards, including the posting of a bond or other security, as the Board
12 deems proper, considering the scope and duration of the requested waiver.

13 (4) A waiver shall be granted only upon a showing that:

14 (A) good cause exists because an emergency situation has occurred;

15 (B) the waiver is necessary to provide adequate and efficient
16 service or to preserve the property of the public service company devoted to
17 public use;

18 (C) measures will be taken, as the Board deems appropriate, to
19 minimize significant adverse impacts under the criteria specified in
20 subdivisions (b)(5) and (8) of this section; and

1 (D) taking into account any terms, conditions, and safeguards that the
2 Board may require, the waiver will promote the general good of the State.

3 (5) Upon the expiration of a waiver, if a certificate of public good has
4 not been issued under this section or a land use permit under 10 V.S.A.
5 chapter 151, whichever applies, the Board shall require the removal,
6 relocation, or alteration of the facilities subject to the waiver, as it finds will
7 best promote the general good of the State.

8 (1) Notwithstanding other provisions of this section, and without limiting
9 any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and
10 (11), when the Governor has proclaimed a state of emergency pursuant to
11 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public
12 Service Board ~~and~~ the Commissioner of Public Service, and the Chair of the
13 Natural Resources Board or their designees, may waive the applicable
14 prohibitions contained in this section and 10 V.S.A. chapter 151 upon site
15 preparation for or construction of an electric transmission facility or a
16 generation facility necessary to ~~assure~~ ensure the stability or reliability of the
17 electric system or a natural gas facility. Waivers issued under this subsection
18 shall be subject to such conditions as are required by the Governor, and shall
19 be valid for the duration of the declared emergency plus 180 days, or such
20 lesser overall term as determined by the Governor. Upon the expiration of a
21 waiver under this subsection, if a certificate of public good has not been issued

1 under this section, the Board shall require the removal, relocation, or alteration
2 of the facilities, subject to the waiver, as the Board finds will best promote the
3 general good of the State.

4 (m) ~~In any matter with respect to which the Board considers the operation~~
5 ~~of a nuclear energy generating plant beyond the date permitted in any~~
6 ~~certificate of public good granted under this title, including any certificate in~~
7 ~~effect as of January 1, 2006, the Board shall evaluate the application under~~
8 ~~current assumptions and analyses and not an extension of the cost benefit~~
9 ~~assumptions and analyses forming the basis of the previous certificate of public~~
10 ~~good for the operation of the facility. [Repealed.]~~

11 (n)(1) No company as defined in section 201 of this title and no person as
12 defined in 10 V.S.A. § 6001(14) may place or allow the placement of wireless
13 communications facilities on an electric transmission ~~or generation~~ facility
14 located in this State, ~~including a net-metered system~~, without receiving a
15 certificate of public good from the Public Service Board pursuant to this
16 subsection. The Public Service Board may issue a certificate of public good
17 for the placement of wireless communications facilities on electric
18 transmission ~~and generation~~ facilities if such placement is in compliance with
19 the criteria of this section and Board rules or orders implementing this section.
20 In developing such rules and orders, the Board:

21 * * *

1 ~~(o) The Board shall not reject as incomplete a petition under this section for~~
2 ~~a wind generation facility on the grounds that the petition does not specify the~~
3 ~~exact make or dimensions of the turbines and rotors to be installed at the~~
4 ~~facility as long as the petition provides the maximum horizontal and vertical~~
5 ~~dimensions of those turbines and rotors and the maximum decibel level that the~~
6 ~~turbines and rotors will produce as measured at the nearest residential structure~~
7 ~~over a 12-hour period commencing at 7:00 p.m. [Repealed.]~~

8 ~~(p) An in-state generation facility receiving a certificate under this section~~
9 ~~that produces electric energy using woody biomass shall annually disclose to~~
10 ~~the board the amount, type, and source of wood acquired to generate energy.~~
11 ~~[Repealed.]~~

12 ~~(q)(1) A certificate under this section shall be required for a plant using~~
13 ~~methane derived from an agricultural operation as follows:~~

14 ~~(A) With respect to a plant that constitutes farming pursuant to~~
15 ~~10 V.S.A. § 6001(22)(F), only for the equipment used to generate electricity~~
16 ~~from biogas, the equipment used to refine biogas into natural gas, the~~
17 ~~structures housing such equipment used to generate electricity or refine biogas,~~
18 ~~and the interconnection to electric and natural gas distribution and transmission~~
19 ~~systems. The certificate shall not be required for the methane digester, the~~
20 ~~digester influents and non-gas effluents, the buildings and equipment used to~~
21 ~~handle such influents and non-gas effluents, or the on-farm use of heat and~~

1 ~~exhaust produced by the generation of electricity, and these components shall~~
2 ~~not be subject to jurisdiction under this section.~~

3 ~~(B) With respect to a plant that does not constitute farming pursuant~~
4 ~~to 10 V.S.A. § 6001(22)(F) but which receives feedstock from off-site farms,~~
5 ~~for all on-site components of the plant, for the transportation of feedstock to~~
6 ~~the plant from off-site contributing farms, and the transportation of effluent or~~
7 ~~digestate back to those farms. The certificate shall not regulate any farming~~
8 ~~activities conducted on the contributing farms that provide feedstock to a plant~~
9 ~~or use of effluent or digestate returned to the contributing farms from the plant.~~

10 ~~(2) Notwithstanding 1 V.S.A. § 214 and Board Rule 5.408, if the Board~~
11 ~~issued a certificate to a plant using methane derived from an agricultural~~
12 ~~operation prior to July 1, 2013, such certificate shall require an amendment~~
13 ~~only when there is a substantial change, pursuant to Board Rule 5.408, to the~~
14 ~~equipment used to generate electricity from biogas, the equipment used to~~
15 ~~refine biogas into natural gas, the structures housing such equipment used to~~
16 ~~generate electricity or refine biogas, or the interconnection to electric and~~
17 ~~natural gas distribution and transmission systems. The Board's jurisdiction in~~
18 ~~any future proceedings concerning such a certificate shall be limited pursuant~~
19 ~~to subdivision (1) of this subsection.~~

1 ~~(3) This subsection shall not affect the determination, under section~~
2 ~~8005a of this title, of the price for a standard offer to a plant using methane~~
3 ~~derived from an agricultural operation.~~

4 ~~(4) As used in this section, “biogas” means a gas resulting from the~~
5 ~~action of microorganisms on organic material such as manure or food~~
6 ~~processing waste. [Repealed.]~~

7 ~~(r) The Board may provide that, in any proceeding under subdivision~~
8 ~~(a)(2)(A) of this section for the construction of a renewable energy plant, a~~
9 ~~demonstration of compliance with subdivision (b)(2) of this section, relating to~~
10 ~~establishing need for the plant, shall not be required if all or part of the~~
11 ~~electricity to be generated by the plant is under contract to one or more~~
12 ~~Vermont electric distribution companies and if no part of the plant is financed~~
13 ~~directly or indirectly through investments, other than power contracts, backed~~
14 ~~by Vermont electricity ratepayers. In this subsection, “plant” and “renewable~~
15 ~~energy” shall be as defined in section 8002 of this title. [Repealed.]~~

16 ~~(s) This subsection sets minimum setback requirements that shall apply to~~
17 ~~in-state ground-mounted solar electric generation facilities approved under this~~
18 ~~section.~~

19 ~~(1) The minimum setbacks shall be:~~

20 ~~(A) from a State or municipal highway, measured from the edge of~~
21 ~~the traveled way:~~

1 ~~(i) 100 feet for a facility with a plant capacity exceeding~~
2 ~~150 kW; and~~

3 ~~(ii) 40 feet for a facility with a plant capacity less than or equal to~~
4 ~~150 kW but greater than 15 kW.~~

5 ~~(B) From each property boundary that is not a State or municipal~~
6 ~~highway:~~

7 ~~(i) 50 feet for a facility with a plant capacity exceeding~~
8 ~~150 kW; and~~

9 ~~(ii) 25 feet for a facility with a plant capacity less than or equal to~~
10 ~~150 kW but greater than 15 kW.~~

11 ~~(2) This subsection does not require a setback for a facility with a plant~~
12 ~~capacity equal to or less than 15 kW.~~

13 ~~(3) On review of an application, the Board may:~~

14 ~~(A) require a larger setback than this subsection requires; or~~

15 ~~(B) approve an agreement to a smaller setback among the applicant,~~
16 ~~the municipal legislative body, and each owner of property adjoining the~~
17 ~~smaller setback.~~

18 ~~(4) In this subsection:~~

19 ~~(A) “kW” and “plant capacity” shall have the same meaning as in~~
20 ~~section 8002 of this title.~~

1 (2) 30 V.S.A. § 219a(c) (standards and procedures; certificate of public
2 good; net metering systems) and (d) (net metering systems; certificate of public
3 good).

4 (3) 30 V.S.A. § 8007 (small renewable energy plants; simplified
5 procedures).

6 (4) 2014 Acts and Resolves No. 99, Sec. 6 (application form).

7 Sec. 6f. CONFORMING REVISION

8 2014 Acts and Resolves No. 99, Sec. 10(e) is amended to read:

9 (e) Secs. ~~6 (application form)~~; 7 (Vermont village green renewable project),
10 8 (alternate energy sources), and 9 (tangible personal property) shall take effect
11 on January 1, 2017.

12 Sec. 6g. INTERCONNECTION

13 Secs. 6 through 6f of this act, concerning siting of electric generation
14 facilities, shall not affect the authority of the Public Service Board to require a
15 facility to comply with its rules governing interconnection procedures for
16 generating resources.

17 Fourth: After Sec. 7, by inserting a Sec. 7a to read:

18 Sec. 7a. 30 V.S.A. § 8006 is amended to read:

19 § 8006. TRADEABLE CREDITS; ENVIRONMENTAL ATTRIBUTES;

20 RECOGNITION, MONITORING, AND DISCLOSURE

1 (a) The Board shall establish or adopt a system of tradeable renewable
2 energy credits for renewable resources that may be earned by electric
3 generation qualifying for the RES. The system shall recognize tradeable
4 renewable energy credits monitored and traded on the New England
5 Generation Information System (GIS); shall provide a process for the
6 recognition, approval, and monitoring of environmental attributes attached to
7 renewable energy that are eligible to satisfy the requirements of sections 8004
8 and 8005 of this title but are not monitored and traded on the GIS; and shall
9 otherwise be consistent with regional practices.

10 (b) The Board shall ensure that the system established under subsection (a)
11 of this section is accessible to the public and that a member of the public who
12 accesses the system can, without difficulty, determine the identity of the
13 current owner of each tradeable renewable energy credit generated by each
14 renewable energy plant located in the State of Vermont; each date, if any, on
15 which such a credit was transferred from one person to another; and, for each
16 such transfer, the identity of the transferor and the transferee.

17 (c) The Board shall ensure that all electricity provider and provider-affiliate
18 disclosures and representations made with regard to a provider's portfolio are
19 accurate and reasonably supported by objective data. Further, the Board shall
20 ensure that providers disclose the types of generation used and shall clearly
21 distinguish between energy or tradeable energy credits provided from

1 renewable and nonrenewable energy sources and existing and new renewable
2 energy.

3 Fifth: By striking out Sec. 8 and inserting in lieu thereof a new Sec. 8 to
4 read:

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

6 § 8010. SELF-GENERATION AND NET METERING

7 * * *

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

10 (1) The rules shall establish and maintain a net metering program that:

11 * * *

12 (H) ~~allows a customer to retain~~ requires the following with respect to
13 ownership of the environmental attributes of energy generated by ~~the a~~
14 customer's net metering system and of any associated tradeable renewable
15 energy credits:

16 (i) The rules shall allow the customer to retain ownership of those
17 attributes and credits produced before January 1, 2022 or to transfer ~~those~~
18 ~~attributes and credits~~ them to the interconnecting retail provider, and:

19 ~~(+)(I)~~ (I) if the customer retains the attributes, ~~reduces~~ shall reduce
20 the value of the credit provided under this section for electricity generated by
21 the customer's net metering system by an appropriate amount; and

1 ~~described by the Vermont Supreme Court in the case of In re Halmon, 174 Vt.~~
2 ~~515 (2002) (mem.). The rules and application form shall state the components~~
3 ~~of this test. [Repealed.]~~

4 * * *

5 (e) In accordance with this subsection, the Board may authorize net
6 metering for two or more plants under separate ownership to be located on the
7 same tract that would qualify as net metering systems but for the fact of
8 colocation on that tract and the use of common equipment and infrastructure.
9 As used in this subsection, “separate ownership” means that each net metering
10 system is owned and controlled by a different person as defined under
11 10 V.S.A. § 6001.

12 (1) The Board may allow colocation under this subsection only if each
13 of the following applies:

14 (A) The municipality’s duly adopted plan under 24 V.S.A. chapter
15 117 designates a tract of land of not less than 20 acres for the colocation of net
16 metering systems.

17 (B) Each net metering system will be located on this tract.

18 (C) Each net metering system to be located on the tract is approved
19 by the municipality’s legislative body prior to approval by the Board.

20 (2) In a municipality that has designated a tract for colocation of net
21 metering systems pursuant to this subsection, the Board shall reduce, by three

- 1 cents per kWh, the amount of the bill credit that would otherwise apply to each
- 2 net metering system that is greater than 15 kW in plant capacity and is to be
- 3 located outside the designated tract.