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

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

(p) Existing hydroelectric plants. Notwithstanding any contrary requirement of this section, no later than January 15, 2013, the Board shall make a standard offer contract available to existing hydroelectric plants in accordance with this subsection.

(1) In this subsection:

(A) “Existing hydroelectric plant” means a hydroelectric plant of ~~five~~ thirty MW plant capacity or less that is located in the State, that was in service as of January 1, 2009, that is a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, and that does not have an agreement with the Board’s purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and board rules adopted under subdivision (8). The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement has expired, provided that the expiration date is prior to December 31, 2020 ~~2015~~.

(B) “LIHI” means the Low-Impact Hydropower Institute of Portland, Maine.

(2) The term of a standard offer contract under this subsection shall be 10 or 20 years, at the election of the plant owner.

(3) Unless inconsistent with applicable federal law, the price of a standard offer contract shall be ~~the lesser of the following:~~

~~(A) \$0.08 per kWh, adjusted for inflation annually commencing January 15, 2013 using the CPI;~~

~~or~~

~~(B)~~ (A) The sum of the following elements:

(i) a two-year rolling average of the ISO New England Inc. (ISO-NE) Vermont zone

1 hourly locational marginal price for energy;

2 (ii) a two-year rolling average of the value of the plant's capacity in the ISO-NE forward
3 capacity market;

4 (iii) the value of avoided line losses due to the plant as a fixed increment of the energy
5 and capacity values;

6 (iv) the value of environmental attributes, including renewable energy credits; and

7 (v) the value of a 10- or 20-year contract.

8 ~~(4) The Board shall determine the price to be paid under this section no later than January 15, 2013.~~

9 ~~(A)~~ (B) Annually by January 15 commencing in ~~2014~~ 2016, the Board shall recalculate and
10 adjust the energy and capacity elements of the price under subdivisions (3)~~(B)~~(A)(i) and (ii) of this
11 subsection (p). The recalculated and adjusted energy and capacity elements shall apply to all contracts
12 executed under this subdivision, whether or not the contracts were executed prior to the adjustments.

13 ~~(B)~~(C) With respect to the price elements specified in subdivisions (3)~~(B)~~(A)(iii) (avoided line
14 losses), (iv) (environmental attributes), and (v) (value of long-term contract) of this subsection (p):

15 (i) These elements shall remain fixed at their values at the time a contract is signed for
16 the duration of the contract, except that the Board may periodically adjust the value of
17 environmental attributes that are applicable to an executed contract based upon whether
18 the plant ~~becomes is and continues to be~~ is and continues to be certified by LIHI or ~~loses such certification after~~
19 January 1, 1987, received a water quality certification pursuant to 33 U.S.C. § 1341 from
20 the Agency of Natural Resources.

21 (ii) The Board annually may adjust these elements for inclusion in contracts that are
22 executed after the date any such adjustments are made.

23 (iii) The value of these elements shall be no less than the value of the same elements
24 determined by the Board pursuant to subsection (f).

25 ~~(5) In addition to the limits specified in subdivision (3) of this subsection (p), in no event shall an~~

1 ~~existing hydroelectric plant receive a price in one year higher than its price in the previous year, adjusted~~
2 ~~for inflation using the CPI, except that if a plant becomes certified by LIHI, the Board may add to the~~
3 ~~price any incremental increase in the value of the plant's environmental attributes resulting from such~~
4 ~~certification.~~

5 ~~(6)-(5)~~Once a plant owner has executed a contract for a standard offer under this subsection (p), the
6 plant owner shall continue to receive the pricing terms agreed on in that contract regardless of whether
7 the Board subsequently changes any pricing terms under this subsection.

8 ~~(7) Capacity of existing hydroelectric plants executing a standard offer contract under this subsection~~
9 ~~shall not count toward the cumulative capacity amount of subsection (c) of this section.~~

10 Sec. 2. INITIAL RECALCULATED RATES

11 The Public Service Board shall calculate and set rates required by § 8005a(p) within thirty days
12 of the effective date of this act.

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect immediately upon passage.

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