

H.676

Introduced by Representatives Yantachka of Charlotte, McCormack of
Burlington, and Sullivan of Burlington

Referred to Committee on

Date:

Subject: Energy; public service; renewable generation; net metering; facility
siting

Statement of purpose of bill as introduced: This bill makes miscellaneous
proposals related to energy.

An act relating to miscellaneous energy subjects

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

~~Sec. 1. 30 V.S.A. § 248(s) is amended to read:~~

~~(s) This subsection sets minimum setback requirements that shall apply to
in-state ground-mounted solar electric generation facilities approved under this
section, unless the facility is installed on a canopy constructed on an
impervious surface primarily used for parking vehicles.~~

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

~~(A) from a State or municipal highway, measured from the edge of
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 Commission 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.

21 (B) “Impervious surface” means a human-made surface, whether

1 ~~paved or unpaved, from which precipitation runs off rather than infiltrates.~~

2 (C) "Setback" means the shortest distance between the nearest
3 portion of a solar panel or support structure for a solar panel, at its point of
4 attachment to the ground, and a property boundary or the edge of a highway's
5 traveled way.

6 Sec. 2. 30 V.S.A. § 248b is amended to read:

7 § 248b. FEES; AGENCY OF NATURAL RESOURCES; PARTICIPATION
8 IN SITING PROCEEDINGS

9 (a) Establishment. This section establishes fees for the purpose of
10 supporting the role of the Agency of Natural Resources (the Agency) in
11 reviewing applications for in-state facilities under sections 248 and 248a of
12 this title.

13 (b) Payment. The applicant shall pay the fee into the State Treasury at the
14 time the application for a certificate of public good is filed with the Public
15 Utility Commission in an amount calculated in accordance with this section.
16 The fee shall be deposited into the Natural Resources Management Fund and
17 allocated to the Agency.

18 (c) Definitions. In this section:

19 (1) "Impervious surface" means a human-made surface, whether paved
20 or unpaved, from which precipitation runs off rather than infiltrates.

21 ~~(2) "kW," "MW," "plant," and "plant capacity" shall have the same~~

1 meaning as in section 8002 of this title.

2 (2)(3) "Natural gas facility" shall have the same meaning as in section
3 248 of this title.

4 (4) "Previously developed land" means a tract disturbed for a use other
5 than siting a facility subject to section 248 of this title and on which a structure
6 or impervious surface was lawfully in existence and use prior to July 1 of the
7 year preceding the year in which an application for a certificate of public good
8 under section 248 is filed for a facility to be sited on the tract.

9 (3)(5) "Telecommunications facility" shall have the same meaning as in
10 section 248a of this title.

11 (d) Electric and natural gas facilities. This subsection sets fees for
12 applications under section 248 of this title.

13 (1) There shall be no fee for an electric generation facility less than or
14 equal to 139 kW in plant capacity or for an application filed under subsection
15 248(k), (l), or (n) of this title.

16 (2) There shall be no fee for a solar electric generation facility mounted
17 on a roof or solar electric generation facility to be installed on previously
18 developed land. For a solar electric generation facility proposed for a
19 previously developed land to qualify under this subdivision, the limits of
20 disturbance of the proposed facility must include either the existing structure
21 or impervious surface and shall not include any headwaters, streams,

1 ~~shoreslines, floodways, rare and irreplaceable natural areas, necessary wildlife~~
2 habitat, wetlands, endangered species, productive forestlands, and primary
3 agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

4 (3) The fee for electric generation facilities greater than 139 kW
5 through five MW in plant capacity shall be calculated as follows, except that in
6 no event shall the fee exceed \$15,000.00:

7 (A) An electric generation facility from 140 kW through 450 kW in
8 plant capacity, \$3.00 per kW.

9 (B) An electric generation facility from 451 kW through 2.2 MW in
10 plant capacity, \$4.00 per kW.

11 (C) An electric generation facility from 2.201 MW through five MW
12 in plant capacity, \$5.00 per kW.

13 ~~(3)(4)~~ The fee shall be equal to \$2.50 for each \$1,000.00 of construction
14 costs, but in no event greater than \$100,000.00 per application, for a new
15 electric generation facility greater than five MW in capacity, and for a new
16 electric transmission facility or new natural gas facility not eligible for
17 treatment under subsection 248(j) of this title.

18 ~~(4)(5)~~ The fee shall be \$2,500.00 for an application under subsection
19 248(j) of this title for a facility that is not electric generation and for an
20 application or that portion of an application under section 248 of this title that
21 ~~consists of upgrading an existing facility within its existing development~~

1 footprint, reconductoring of an electric transmission line on an existing
2 structure, or the addition of an electric transmission line to an existing
3 structure.

4 * * *

5 Sec. 3. PUBLIC UTILITY COMMISSION; AMENDMENT TO NET
6 METERING RULES

7 (a) This section amends the net metering rules of the Public Utility
8 Commission, currently adopted as Rule 5.100 of that Commission (the Rules).

9 (b) Sec. 5.105 of the Rules is amended to read:

10 5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic
11 Facilities, and Wind Generation Facilities of up to 15 kW in Capacity, and
12 Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500
13 kW Mounted on a Roof or Parking Canopy

14 (A) Applicability. The registration procedure is applicable only to
15 hydroelectric facilities, ground-mounted photovoltaic systems, and wind
16 generation facilities of up to 15 kW and photovoltaic net-metering systems that
17 are mounted on a roof or parking canopy.

18 * * *

19 (c) In Sec. 5.106(A) of the Rules, the sentence after "Applicability" is
20 amended to read:

21 This application procedure is applicable to ground-mounted photovoltaic and

1 ~~wind net metering systems that are greater than 15 kW and up to 50 kW in~~
2 capacity. This application procedure is also applicable to net-metering systems
3 of 50 kW or less that use other eligible technologies. This application
4 procedure does not apply to hydroelectric facilities or ~~roof-mounted~~
5 photovoltaic net-metering systems mounted on a roof or parking canopy.

6 (d) In Sec. 5.107(A) of the Rules, the sentence after “Applicability” is
7 amended to read:

8 This application procedure is applicable to net-metering systems greater than
9 50 kW that are not photovoltaic systems mounted on a roof or parking canopy
10 or are not hydroelectric facilities.

11 (e) On or before August 1, 2018, the Public Utility Commission shall
12 conform the published version of the Rules described in this section to the
13 amendments made in subsections (b), (c), and (d) of this section. Provided
14 such conformance is the only revision to the Rules, the rulemaking procedures
15 of the Vermont Administrative Procedure Act shall not apply to the publication
16 of this conformed version of the Rules. However, on publication, the
17 Commission shall send a copy of the conformed version of the Rules to the
18 Office of the Secretary of State and the Legislative Committee on
19 Administrative Rules.

20 Sec. 4. 30 V.S.A. § 8010 is amended to read:

21 § 8010. SELF-GENERATION AND NET METERING
22

1 ~~(c) In accordance with this section, the Commission shall adopt and~~
2 implement rules that govern the installation and operation of net metering
3 systems.

4 * * *

5 (3) The rules shall establish standards and procedures governing
6 application for and issuance or revocation of a certificate of public good for
7 net metering systems under the provisions of section 248 of this title. In
8 establishing these standards and procedures:

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

12 (B) The rules may modify notice and hearing requirements of this
13 title as the Commission considers appropriate.

14 (C) The rules shall seek to simplify the application and review
15 process as appropriate, including simplifying:

16 (i) Providing a registration process, in lieu of filing an application,
17 for solar and wind net metering systems of 15 kW or less and solar net
18 metering systems of any size if mounted on a roof or parking canopy. The
19 registration process also may apply to hydroelectric net metering systems.
20 Under the registration process, a certificate of public good under section 248
21 of this title shall be deemed issued unless the interconnecting retail provider

1 ~~submits, within a period to be prescribed in the rules, a letter raising~~
2 ~~interconnection issues to the Commission with a copy to the registrant.~~

3 (ii) ~~Simplifying the application and review process to encourage~~
4 ~~group net metering systems when the system is at least 50 percent owned by~~
5 ~~the customers who receive the bill credits for the electricity generated by the~~
6 ~~system.~~

7 * * *

8 Sec. 5. EFFECTIVE DATES

9 ~~This section and Secs. 3 and 4 shall take effect on passage. Secs. 1 and 2~~
10 ~~shall take effect on July 1, 2018.~~

~~Sec. 1. 30 V.S.A. § 248(c) is amended to read:~~

~~(s) This subsection sets minimum setback requirements that shall apply to~~
~~in-state ground-mounted solar electric generation facilities approved under~~
~~this section, unless the facility is installed on a canopy constructed on an area~~
~~primarily used for parking vehicles that is in existence or permitted on the date~~
~~the application for the facility is filed.~~

~~Sec. 1. 30 V.S.A. § 248(s) is amended to read:~~

~~(s) This subsection sets minimum setback requirements that shall apply to~~
~~in-state ground-mounted solar electric generation facilities approved under~~
~~this section, unless the facility is installed on a canopy constructed on an area~~

primarily used for parking vehicles that is in existence or permitted on the date the application for the facility is filed.

* * *

(3) On review of an application, the Commission may:

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

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

(C) require a setback for a facility constructed on an area primarily used for parking vehicles, if the application concerns such a facility.

* * *

Sec. 2. 30 V.S.A. § 248b is amended to read:

§ 248b. FEES; AGENCY OF NATURAL RESOURCES; PARTICIPATION
IN SITING PROCEEDINGS

(a) Establishment. This section establishes fees for the purpose of supporting the role of the Agency of Natural Resources (the Agency) in reviewing applications for in-state facilities under sections 248 and 248a of this title.

* * *

(d) Electric and natural gas facilities. This subsection sets fees for applications under section 248 of this title.

(1) There shall be no fee for an electric generation facility less than or equal to ~~139~~ 50 kW in plant capacity, for roof-mounted photovoltaic systems of any capacity up to and including 500 kW, or for an application filed under subsection 248(k), (l), or (n) of this title.

(2) The fee for electric generation facilities greater than ~~139~~ 50 kW through five MW in plant capacity shall be calculated as follows, except that in no event shall the fee exceed \$15,000.00:

(A) An electric generation facility from 51 kW through 139 kW in plant capacity, \$2.00 per kW.

(B) An electric generation facility from 140 kW through 450 kW in plant capacity, \$3.00 per kW.

(B)(C) An electric generation facility from 451 kW through 2.2 MW in plant capacity, \$4.00 per kW.

(C)(D) An electric generation facility from 2.201 MW through five MW in plant capacity, \$5.00 per kW.

* * *

Sec. 3. 6 V.S.A. chapter 217 is added to read:

CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION
STANDARD

§ 5101. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Invasive species” means any species of vegetation that:

(A) is designated as a noxious weed on the Agency’s Noxious Weed

Rule under chapter 84 of this title;

(B) is listed on the Vermont Invasive Exotic Plant Committee Watch

List;

(C) has been quarantined by the Agency as invasive; or

(D) has been determined to be invasive by the Agency of Natural
Resources.

(3) “Native” refers to perennial vegetation that is native to Vermont.

Native perennial vegetation does not include invasive species.

(4) “Naturalized” refers to perennial vegetation that is not native to
Vermont, but is now considered to be well established and part of Vermont
flora. Naturalized perennial vegetation does not include invasive species.

(5) “Owner” means a public or private entity that has a controlling
interest in the solar site.

(6) “Perennial vegetation” means wildflowers, forbs, shrubs, sedges,
rushes, and grasses that serve as habitat, forage, and migratory way stations
for pollinators.

(7) “Pollinator” means bees, birds, bats, and other insects or wildlife
that pollinate flowering plants, and includes wild and managed insects.

(8) “Solar site” means a ground-mounted solar system for generating electricity and the area surrounding that system under the control of the owner.

(9) “Vegetation management plan” means a written document that includes short- and long-term site management practices that will provide and maintain native and naturalized perennial vegetation.

§ 5102. BENEFICIAL HABITAT STANDARD

(a) This section establishes a standard for owners that intend to claim that, through the voluntary planting and management of vegetation, a solar site provides greater benefits to pollinators and shrub-dependent birds than are provided by solar sites not so managed.

(b) In order for the solar site to meet the beneficial habitat standard and for the owner of a solar site to claim that the solar site is beneficial to those species or is pollinator-friendly, all the following shall apply:

(1) The owner adheres to guidance set forth by the Pollinator-Friendly Scorecard (Scorecard) published by the University of Vermont (UVM) Extension.

(2) The owner shall make the solar site’s completed Scorecard available to the public and provide a copy of the completed Scorecard to the UVM Extension.

(3) If the site has a vegetation management plan:

(A) The plan shall maximize the use of native and naturalized

perennial vegetation for foraging habitat beneficial to pollinators consistent with the solar site's Scorecard.

(B) The owner shall make the vegetation management plan available to the public and provide a copy of the plan to the UVM Extension.

(4) When establishing perennial vegetation and beneficial foraging habitat, the solar site shall use native and naturalized plant species and seed mixes whenever practicable.

(c) Nothing in this chapter affects any findings that must be made in order to issue a State permit or other approval for a solar site or the duty to comply with any conditions in such a permit or approval.

Sec. ~~3~~4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.