

S.52

An act relating to the Public Service Board and its proceedings.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Preapplication Submittals; Energy Facilities \* \* \*

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

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) ~~Such~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) ~~Such commissions shall make~~ Make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board within 40 days of the petitioner's submittal to the planning commission under this subsection.

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and

the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

\* \* \* Facility Siting; Service of Application When Determined Complete;

Extension of Telecommunications Siting Authority \* \* \*

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a “meteorological station” consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that ~~completed applications be filed~~ the applicant first file the application with the Board; and that, within two business days of notification from the Board that

the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the ~~Board's receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

\* \* \*

Sec. 3. 30 V.S.A. § 248(a)(4) is amended 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. From the comments made at the public hearing, the Board shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

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

(C) ~~At the time of filing its application with the Board, copies shall be given by the petitioner to~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on 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 the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

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

\* \* \*

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. ~~The~~ Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to the those parties specified in subdivision (a)(4)(C) of this section, to any public interest organization that

has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within ~~28~~ 30 days of the ~~initial publication~~ date of service of the complete filing on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS  
FACILITIES

\* \* \*

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its

Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy of that guide.

\* \* \*

(i) Sunset of Board authority. Effective on July 1, ~~2017~~ 2020, no new applications for certificates of public good under this section may be considered by the Board.

(j) Telecommunications facilities of limited size and scope.

\* \* \*

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide~~. Within two business days of notification from the Board that the filing is complete, the



applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact ~~to~~ on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

\* \* \*

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application ~~filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within ~~45~~ 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

\* \* \*

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to

undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~24~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

\* \* \*

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting

such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

\* \* \*

\* \* \* Notice of Petitions for a CPG to Do Business \* \* \*

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF  
SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, ~~which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and the time~~

~~and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing.~~ At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at ~~such~~ the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

\* \* \*

\* \* \* Enforcement \* \* \*

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

\* \* \*

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

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

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

\* \* \*

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than \$5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the person and the Board with a copy of each comment received.

(ii) Within 15 days of the close of the comment period, may file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 25 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days of receipt of a final administrative citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final



administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any contrary provision of this section, a penalty under this subdivision (4) shall not exceed \$5,000.00.

(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

\* \* \* Name Change to Public Utility Commission \* \* \*

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC ~~SERVICE BOARD~~ UTILITY COMMISSION

(a) The Vermont Public Service Board Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the ~~Board~~ Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the ~~Board~~ Commission may be removed only for cause. When a ~~Board~~ Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of the ~~Board~~ Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the ~~Board~~ Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the ~~Board~~ Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the ~~Board~~ Commission. Upon remand the ~~Board~~ Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

(g) The Chair shall have general charge of the offices and employees of the ~~Board~~ Commission.

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the Public ~~Service Board~~ Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the Public ~~Service Board~~ Utility Commission under section 3 of this title, ~~except when used to refer to the~~  
~~Clean Energy Development Board.~~

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Public Service Board” with “Public Utility Commission”; and

(2) replace “Board” with “Commission” when the existing term “Board” refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless accompanied by one or more other revisions to the rules, such a change need not be made through the rulemaking process under the Administrative Procedure Act.

\* \* \* In-person Citizens' Access to Public Service Board Hearings \* \* \*

Sec. 13a. 30 V.S.A. § 11 is amended to read:

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

\* \* \*

(b) The Board shall allow all members of the public to attend each of its hearings unless the hearing is for the sole purpose of considering information to be treated as confidential pursuant to a protective order duly adopted by the Board.

(1) The Board shall make all reasonable efforts to ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend.

(2) The Board shall ensure that the public may safely attend the hearing, including obtaining such resources as may be necessary to fulfill this obligation.

(c) The Board shall hear all matters within its jurisdiction, and make its findings of fact. It shall state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings of fact shall be accepted unless clearly erroneous.

\* \* \* Remote Location Access by Citizens to PSB Hearings \* \* \*

Sec. 14. PLAN; CITIZENS' ACCESS TO PSB HEARINGS FROM  
REMOTE LOCATIONS

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department's Vermont Video Connect proposal described in the Report to the General Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

(1) assessment of cost-effective interactive video technologies;

(2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;

(3) the estimated capital costs of providing such access; and

(4) the estimated operating costs for hosting and connecting.

\* \* \* Citizen Access to Public Service Board; Implementation Report \* \* \*

#### Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP

##### RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

\* \* \* Appliance Efficiency \* \* \*

#### Sec. 16. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 17 through 21 of this act adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should

the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 17. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

\* \* \*

(15) “General service lamp” has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 18. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.
- (3) Residential furnaces and residential boilers.



(4) Single-voltage external AC to DC power supplies.

(5) State-regulated incandescent reflector lamps.

(6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 19. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum

efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

\* \* \*

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 20. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

\* \* \*

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided.

However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

#### Sec. 21. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 19 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

\* \* \* Energy Storage \* \* \*

Sec. 22. ENERGY STORAGE; REPORT

(a) Definitions. As used in this section, “energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

(b) Report. On or before November 15, 2017, the Commissioner of Public Service shall submit a report on the issue of deploying energy storage on the Vermont electric transmission and distribution system.

(1) The Commissioner shall submit the report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(2) The Commissioner shall provide an opportunity for the public and Vermont electric transmission and distribution companies to submit information relevant to the preparation of the report.

(3) The report shall:

(A) summarize existing state, regional, and national actions or initiatives affecting deployment of energy storage;

(B) identify and summarize federal and state jurisdictional issues regarding deployment of energy storage;

(C) identify the opportunities for, the benefits of, and the barriers to deploying energy storage;

(D) identify and evaluate regulatory options and structures available to foster energy storage, including potential cost impacts to ratepayers; and

(E) assess the potential methods for fostering the development of cost-effective solutions for energy storage in Vermont and the potential benefits and cost impacts of each method for ratepayers.

(4) The report shall identify the challenges and opportunities for fostering energy storage in Vermont.

Sec. 23. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

\* \* \*

(b) Definitions. ~~For purposes of~~ As used in this section, the following definitions shall apply:

\* \* \*

(6) “Energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

\* \* \*

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) ~~small-scale~~ small-scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than those of commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations;

(M) energy storage projects that facilitate utilization of renewable energy resources.

\* \* \*

\* \* \* Telecommunications Plan \* \* \*

Sec. 24. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;



(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure;

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; ~~and.~~

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with

Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

\* \* \* Standard Offer Program; Exemption \* \* \*

#### Sec. 25. STANDARD OFFER PROGRAM; EXEMPTION; REPORT

(a) On or before December 15, 2018, the Public Service Board (Board) shall submit a written report providing its recommendations related to the

exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption, including the effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001. In developing its recommendations under this section, the Board shall conduct a proceeding to solicit input from potentially affected parties and the public.

(b) Notwithstanding any contrary provision of the exemption at 30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to be exempt under subdivision 8005a(k)(2)(B) during calendar year 2018 or calendar year 2019 unless that provider previously qualified for an exemption under that subdivision.

(c) In this section, "retail electricity provider" has the same meaning as in 30 V.S.A. § 8002.

\* \* \* Open Meeting Law; Public Service Board \* \* \*

Sec. 25a. REPORT; OPEN MEETING LAW; PUBLIC SERVICE BOARD

(a) On or before December 15, 2017, the Attorney General shall submit a report on the exemption of the Public Service Board from the Vermont Open Meeting Law, 1 V.S.A. § 312(e). The report shall evaluate whether the Board should continue to have a complete exemption from the Open Meeting Law or whether its exemption should be limited, as with other administrative boards, to the Board's deliberations in connection with quasi-judicial proceedings.

The report shall set out the reasons favoring and disfavoring each of these outcomes and provide the Attorney's General recommendation.

(b) The report described in subsection (a) shall be submitted to the House and Senate Committees on Government Operations, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

\* \* \* Effective Dates \* \* \*

Sec. 26. EFFECTIVE DATES

This section and Secs. 14 through 25a shall take effect on passage. The remainder of this act shall take effect on July 1, 2017.

and that after passage the title of the bill be amended to read: "An act relating to the Public Service Board, energy, and telecommunications"