

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

H.739

COMPARISON OF HOUSE AND SENATE VERSIONS

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

1 (4) All of the following shall apply to a class of programs under this
2 subsection:

3 (A) A member of the transmission or industrial electric rate classes
4 shall be eligible to apply to participate in the self-managed energy efficiency
5 program class if the charges to the applicant, or to its predecessor in interest at
6 the served property, under subdivision (d)(3) of this section were a
7 minimum of:

8 (i) \$1.5 million during calendar year 2008; or

9 (ii) \$1.5 million during calendar year 2017.

10 (B) A cost-based fee to be determined by the Commission shall be
11 charged to the applicant to cover the administrative costs, including savings
12 verification, incurred by the Commission and Department. The Commission
13 shall determine procedures for savings verification. Such procedures shall be
14 consistent with savings verification procedures established for entities
15 appointed under subdivision (d)(2) of this section **and, when determined to**
16 **be cost-effective under subdivision (L) of this subdivision (4), with the**
17 **requirements of ISO-New England for the forward capacity market**
18 **(FCM) program.**

19 (C) An applicant shall demonstrate to the Commission that it has a
20 comprehensive energy management program with annual objectives.

1 Achievement of certification of ISO standard 14001 shall be eligible to satisfy
2 the requirements of having a comprehensive program.

3 (D) An applicant eligible pursuant to subdivision (A)(i) of this
4 subdivision (j)(4) shall commit to an annual average ~~energy efficiency~~
5 investment in energy efficiency and **energy** productivity programs and
6 measures during each three-year period that the applicant participates in the
7 program of ~~no~~ not less than \$1 million. An applicant eligible pursuant to
8 subdivision (A)(ii) of this subdivision (j)(4) shall commit to an annual average
9 investment in energy efficiency and **energy** productivity programs and
10 measures during each three-year period that the applicant participates in the
11 program of not less than \$500,000.00. To achieve the exemption from energy
12 efficiency charges related to natural gas under subdivision (3) of this
13 subsection (j), ~~the~~ an applicant shall make an additional annual energy
14 efficiency investment in an amount not less than \$55,000.00. As used in this
15 subsection (j), “**energy** productivity programs and measures” means
16 investments that reduce the amount of energy required to produce a unit of
17 product **below baseline energy use. Baseline energy use shall be calculated**
18 **as the average amount of energy required to make one unit of the same**
19 **product in the two years preceding implementation of the program or**
20 **measure.**

1 (E) Participation in the self-managed program includes efficiency and
2 productivity programs and measures applicable to electric and other forms of
3 energy. A participant may balance ~~efficiency~~ investments in such programs
4 and measures across all types of energy or fuels without limitations.

5 (F) A participant shall provide to the Commission and Department
6 annually an accounting of ~~energy~~ investments in energy efficiency and energy
7 productivity programs and measures and the resultant energy savings in the
8 form prescribed by the Commission, which may conduct reasonable audits to
9 ensure the accuracy of the data provided.

10 (G) The Commission shall report to the General Assembly annually
11 by on or before April 30 concerning the prior calendar year's class of self-
12 managed energy efficiency programs. The report shall include identification of
13 participants, their annual investments, and resulting savings, and any actions
14 taken to exclude entities from the program.

15 (H) Upon approval of an application by the Commission, the
16 applicant shall be able to participate in the class of self-managed energy
17 efficiency programs.

18 (I) On a determination that, for a given three-year period, a
19 participant in the self-managed efficiency program class did not meet or has
20 not met the commitment required by subdivision ~~(4)~~(D) of this ~~subsection~~

1 subdivision (j)(4), the Commission shall terminate the participant's eligibility
2 for the self-managed program class.

3 (i) On such termination, the former participant will be subject
4 fully to the then existing charges applicable to its rate class without exemption
5 under subdivision (3) of this subsection (j), and within 90 days ~~of~~ after such
6 termination shall pay:

7 (I) the difference between the investment it made pursuant to
8 the self-managed energy efficiency program during the three-year period of
9 noncompliance and the full amount of the charges and rates related to energy
10 efficiency it would have incurred during that period absent exemption under
11 subdivision (3) of this subsection (j); and

12 (II) the difference between the investment it made pursuant to
13 the program within the current three-year period, if different from the period of
14 noncompliance, and the full amount of the charges and rates related to energy
15 efficiency it would have incurred during the current period absent exemption
16 under subdivision (3) of this subsection (j).

17 (ii) Payments under subdivision ~~(4)(I)(i)~~ of this ~~subsection (j)~~
18 subdivision (4)(I) shall be made to the entities to which the full amount of
19 charges and rates would have been paid absent exemption under subdivision
20 (3) of this subsection (j).

1 (iii) A former participant may not reapply for membership in the
2 self-managed program after termination under this subdivision (4)(I).

3 (J) A participant in the self-managed program class may request
4 confidentiality of data it reports to the Commission if the data would qualify
5 for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is
6 requested, the Commission shall disclose the data only in accordance with a
7 protective agreement approved by the Commission and signed by the recipient
8 of the data, unless a court orders otherwise.

9 (K) Any data not subject to a confidentiality request under
10 subdivision ~~(4)(J)~~ of this subsection subdivision (4) will be a public record.

11 (L) A participant in the self-managed program class ~~may~~ **shall work**
12 **with the Department of Public Service to determine whether it is cost-**
13 **effective to** submit projects to ~~the independent system operator of ISO-New~~
14 ~~England, including through recognized independent aggregators,~~ for
15 payments ~~under that operator's forward capacity market~~ **the FCM**
16 ~~program, and shall invest such payments in electric or fuel efficiency.~~

17 **(i) As used in this subdivision (L), "cost-effective" requires**
18 **that the estimated payments from the FCM program exceed the**
19 **incremental cost of savings verification necessary for submission to that**
20 **program.**

1 (4) “Customer EEC Funds” means a customer’s EEC payments during
2 the period of the ESA partnership project.

3 (5) “Department” means the Department of Public Service under
4 3 V.S.A. § 212 and 30 V.S.A. § 1.

5 (6) “EEC” means an energy efficiency charge on a customer’s retail
6 electric bill under 30 V.S.A. § 209(d).

7 (7) “Efficiency Vermont” or “EVT” means the EEU whose appointment
8 under 30 V.S.A § 209(d)(2) includes the delivery of programs and measures to
9 customers of multiple electric distribution utilities.

10 (8) “Energy efficiency utility” or “EEU” means an entity appointed to
11 deliver energy efficiency and conservation programs and measures under
12 30 V.S.A. § 209(d)(2).

13 (9) “Energy productivity measures” means investments that reduce the
14 amount of energy required to produce a unit of product **below baseline energy**
15 **use. Baseline energy use shall be calculated as the average amount of**
16 **energy required to make one unit of the same product in the two years**
17 **preceding implementation of the program or measure.**

18 (10) “ESA” means an energy savings account under 30 V.S.A.
19 § 209(d)(3)(B).

20 (11) “ESA Partnership Pilot” means the three-year pilot program
21 established by this section.

1 (12) “Regulated fuel” shall have the same meaning as in 30 V.S.A.
2 § 209(e).

3 (13) “SMEEP” means the self-managed energy efficiency program
4 established under 30 V.S.A. § 209(j).

5 (14) “Standing committees of jurisdiction” means the House Committee
6 on Energy and Technology and the Senate Committees on Finance and on
7 Natural Resources and Energy.

8 (15) “Unregulated fuel” shall have the same meaning as in 30 V.S.A.
9 § 209(e).

10 (b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the
11 Commission by rule or order shall establish a three-year pilot program for
12 customers to self-direct the use of their Customer EEC Funds, working with
13 EVT. The total amount of Customer EEC Funds available in the pilot program
14 each year shall not exceed \$2 million. The pilot program established under
15 this section shall be an expansion of the ESA option under which:

16 (1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B),
17 the customer shall **continue to pay its EEC and** be able to receive an amount
18 equal to 100 percent of its **ESA account balance** to pay for the full cost of
19 projects that are eligible under subdivision (3) of this subsection; for technical
20 assistance and other services from Efficiency Vermont; and for evaluation,
21 measurement, and verification activity conducted by the Department or EVT.

1 (2) The customer may receive payments in advance of project
2 completion from EVT based on the energy management plan submitted under
3 subsection (d) of this section, estimated project costs, and projected energy
4 savings. However, a customer shall not receive advance payments from EVT
5 that exceed the amount of Customer EEC Funds the customer has already paid.

6 (3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the
7 Customer EEC Funds may be used for one or more of the following: electric
8 energy efficiency, thermal energy and process-fuel efficiency for unregulated
9 fuels, **energy** productivity measures, demand management, and energy storage
10 that provides benefits to the customer and its interconnecting utility. **In**
11 **addition, for a customer who is a manufacturer and whose purchases of**
12 **regulated fuel exceeded 600,000 thousand cubic feet (MCF) in 2017, the**
13 **Funds may be used for thermal energy and process-fuel efficiency for**
14 **regulated fuels, and any regulated fuel savings attributable to investment**
15 **of Customer EEC Funds through the pilot program shall be counted**
16 **towards EVT’s performance indicators. EVT may allocate the cost of the**
17 **pilot across regulated and unregulated fuel funding sources in a manner**
18 **that avoids or reduces the need to adjust savings goals approved by the**
19 **Commission.**

20 (c) Methodology for evaluation, measurement, and verification. In its rule
21 or order under subsection (b) of this section, the Commission shall establish a

1 methodology for evaluation, measurement, and verification of projects
2 implemented under the pilot that is consistent with the requirements of
3 30 V.S.A. § 218c and that includes cost-effectiveness screening that values
4 energy savings across the customer’s energy portfolio and non-energy benefits
5 such as economic development. As used in this subsection, “economic
6 development” includes job creation, job retention, and capital investment.

7 (1) This methodology may be considered for future establishment of
8 EEU performance criteria under 30 V.S.A. § 209(d).

9 (2) EVT and the Department shall evaluate and verify the electricity
10 savings of each project funded under the ESA Partnership Pilot with no less
11 rigor than is required ~~by the Independent System Operator of ISO-New~~
12 England (~~ISO-NE~~) for ~~the ISO-NE’s~~ its Forward Capacity Market (FCM)
13 program.

14 (d) Competitive solicitation. A customer shall apply to participate in the
15 ESA Partnership Pilot through a competitive solicitation process conducted
16 jointly by EVT, the Department, and ACCD.

17 (1) Promptly after the Commission’s rule or order under subsection (b)
18 of this section becomes effective, EVT, the Department, and ACCD shall
19 establish criteria for customer selection that are consistent with that rule or
20 order and that take into account energy efficiency and economic development.

1 (2) On establishment of the selection criteria, EVT, the Department, and
2 ACCD jointly shall issue a request for proposals (RFP) from customers
3 seeking to participate in the ESA Partnership Pilot.

4 (3) EVT, the Department, and ACCD jointly shall select customers to
5 participate in the ESA Partnership Pilot from among the customers that timely
6 submit proposals in response to the RFP and shall notify the Commission of
7 the selected customers.

8 (4) If EVT, the Department, and ACCD are unable to resolve an issue
9 arising under this subsection, they shall bring the issue to the Commission for
10 resolution.

11 (5) Customer selection under this subsection shall be completed before
12 July 1, 2019.

13 (e) Energy management plans. Working with EVT, each customer selected
14 for the ESA Partnership Pilot shall develop an energy management plan for the
15 three-year period of the pilot with projects to be implemented, energy savings
16 targets, and a timeline for projects and investments. A copy of each plan shall
17 be submitted to the Commission, the Department, and ACCD.

18 (f) Other EEU services. A customer that participates in the ESA
19 Partnership Pilot shall not be eligible for other EEU services, except for an
20 EEU appointed to deliver natural gas efficiency programs and measures.

1 (g) Other funding. A customer that participates in the ESA Partnership
2 Pilot may receive funding from an energy program administered by a
3 government or other person that is not the participant, including an EEU
4 appointed to deliver natural gas efficiency services, but shall not count such
5 funds as part of the investment commitment of the ESA Partnership Pilot.

6 (h) Unused funds. At the end of the ESA Partnership Pilot, any Customer
7 EEC Funds that have not been expended or committed under the pilot shall
8 revert to use for systemwide energy efficiency programs and measures.

9 (i) Annual reports. On or before each November 1 from 2020 through
10 2022, the EVT and the selected customers jointly shall submit written progress
11 reports to the Commission, the Department, and the standing committees of
12 jurisdiction that include projects under the ESA Partnership Pilot and their
13 associated energy and cost savings. A customer's projects under the pilot and
14 the associated data and results shall be made public through this report.
15 However, a customer may request that the Commission order customer-
16 specific data to be used in preparing a report under this subsection be kept
17 confidential if the data would qualify for exemption from disclosure under
18 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the
19 order shall be disclosed only in accordance with a protective agreement
20 approved by the Commission and signed by the recipient of the data, unless a
21 court directs otherwise.

1 (j) Evaluation; recommendation. On completion of the ESA Partnership
2 Pilot, the Commission shall conduct or shall have a third party conduct an
3 independent evaluation of the ESA Partnership Pilot.

4 **(1) The evaluation shall analyze and compare, among pilot**
5 **participants and companies of similar size outside the pilot: job creation**
6 **and retention, energy savings, total energy cost reductions, energy**
7 **productivity measures, amount of capital applied and leveraged,**
8 **greenhouse gas reductions, and other criteria as defined by the**
9 **Commission. The evaluation shall also study the effects of the pilot on**
10 **other ratepayers.**

11 **(2) The evaluation shall provide electric system results for the ESA**
12 **Pilot Program and compare them to the electric system results that would**
13 **have been obtained had the Customer EEC Funds been expended**
14 **pursuant to the electric energy efficiency programs otherwise authorized**
15 **under 30 V.S.A. § 209(d). In this subdivision (2), “electric system results”**
16 **means: total electric energy savings, total avoided cost of purchasing**
17 **power, total avoided costs of transmission and distribution improvements,**
18 **and resulting FCM program revenues.**

19 **(3) After considering the results of that evaluation, the Commission**
20 **shall submit a written recommendation to the standing committees of**
21 **jurisdiction on whether to continue the program conducted under this section**

1 and, if so, under what recommended conditions and revisions, if any. The
2 Commission shall submit this recommendation to the General Assembly on or
3 before January 15, 2023.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on July 1, 2018.