

**SENATE COMMITTEE ON FINANCE**  
**ENERGY EFFICIENCY-RELATED PROVISIONS**

Office of Legislative Council Feb. 14, 2018

30 V.S.A. § 218c. LEAST-COST INTEGRATED PLANNING

(a)(1) A “least-cost integrated plan” for a regulated electric or gas utility is a plan for meeting the public’s need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission, and distribution capacity, transmission and distribution efficiency, and **comprehensive energy efficiency programs**. Economic costs shall be assessed with due regard to:

(A) the greenhouse gas inventory developed under the provisions of 10 V.S.A. § 582;

(B) the State’s progress in meeting its greenhouse gas reduction goals;

(C) the value of the financial risks associated with greenhouse gas emissions from various power sources; and

(D) consistency with section 8001 (renewable energy goals) of this title.

(2) **“Comprehensive energy efficiency programs” shall mean a coordinated set of investments or program expenditures made by a regulated electric or gas utility or other entity as approved by the Commission pursuant to subsection 209(d) of this title to meet the public’s need for energy services through efficiency, conservation, or load management in all customer classes and areas of opportunity which is designed to acquire the full amount of cost-effective savings from such investments or programs.**

(b) Each regulated electric or gas company shall prepare and implement a least-cost integrated plan for the provision of energy services to its Vermont customers. At least every third year on a schedule directed by the Public Utility Commission, each such company shall submit a proposed plan to the Department of Public Service and the Public Utility Commission. The Commission, after notice and opportunity for hearing, may approve a company’s least-cost integrated plan if it determines that the company’s plan complies with the requirements of subdivision (a)(1) of this section and of sections 8004 and 8005 of this title.

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30 V.S.A. § 209. JURISDICTION; GENERAL SCOPE

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(d) **Energy efficiency.**

(1) Programs and measures. The Department of Public Service, **any entity appointed by the Commission under subdivision (2) of this subsection**, all gas and electric utility companies, and the Commission upon its own motion **are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and measures, including appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency**

**of Natural Resources. Such programs and measures, and their implementation, may be approved by the Commission if it determines they will be beneficial to the ratepayers of the companies after such notice and hearings as the Commission may require by order or by rule.** The Department of Public Service shall investigate the feasibility of enhancing and expanding the efficiency programs of gas utilities and shall make any appropriate proposals to the Commission.

**(2) Appointment of independent efficiency entities.**

**(A) Electricity and natural gas. In place of utility-specific programs developed pursuant to this section and section 218c of this title, the Commission shall, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures, including programs and measures delivered in multiple service territories, by one or more entities appointed by the Commission for these purposes.** The Commission may include appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency of Natural Resources. **Except with regard to a transmission company, the Commission may specify that the appointment of an energy efficiency utility to deliver services within an electric utility's service territory satisfies that electric utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the Commission.**

**(B) Thermal energy and process-fuel customers.** The Commission shall provide for the coordinated development, implementation, and monitoring of cost-effective efficiency and conservation programs to thermal energy and process-fuel customers on a whole buildings basis by one or more entities appointed by the Commission for this purpose.

(i) In this section, "thermal energy" means the use of fuels to control the temperature of space within buildings and to heat water.

(ii) Periodically on a schedule directed by the Commission, the appointed entity or entities shall propose to the Commission a plan to implement this subdivision (d)(2)(B). The proposed plan shall comply with subsections (e)-(g) of this section and shall be subject to the Commission's approval. The Commission shall not conduct the review of the proposed plan as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an opportunity for written and oral comments to the public and affected parties and State agencies.

**(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Commission may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality.** The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Commission and deposited into the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Commission. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

(A) Balances in the Electric Efficiency Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Commission will annually provide the General Assembly with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection (d).

**(B) The charge established by the Commission pursuant to this subdivision (3) shall be in an amount determined by the Commission by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the Commission shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.** The Commission, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00 may apply to the Commission to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for systemwide energy benefits. The Commission in its rules or order shall establish criteria for approval of these applications.

(C) The Commission may authorize the use of funds raised through an energy efficiency charge on electric ratepayers to reduce the use of fossil fuels for space heating by supporting electric technologies that may increase electric consumption, such as air source or geothermal heat pumps if, after investigation, it finds that deployment of the technology:

- (i) will be beneficial to electric ratepayers as a whole;
- (ii) will result in cost-effective energy savings to the end-user and to the State as a whole;
- (iii) will result in a net reduction in State energy consumption and greenhouse gas emissions on a life-cycle basis and will not have a detrimental impact on the environment through other means such as release of refrigerants or disposal. In making a finding under this subdivision, the Commission shall consider the use of the technology at all times of year and any likely new electricity demand created by such use;
- (iv) will be part of a comprehensive energy efficiency and conservation program that meets the requirements of subsections (d)-(g) of this section and that makes support for the technology contingent on the energy performance of the building in which the technology

is to be installed. The building's energy performance shall achieve or shall be improved to achieve an energy performance level that is approved by the Commission and that is consistent with meeting or exceeding the goals of 10 V.S.A. § 581 (building efficiency);

(v) among the product models of the technology that are suitable for use in Vermont, will employ the product models that are the most efficient available;

(vi) will be promoted in conjunction with demand management strategies offered by the customer's distribution utility to address any increase in peak electric consumption that may be caused by the deployment;

(vii) will be coordinated between the energy efficiency and distribution utilities, consistent with subdivision (f)(5) of this section; and

(viii) will be supported by an appropriate allocation of funds among the funding sources described in this subsection (d) and subsection (e) of this section. In the case of measures used to increase the energy performance of a building in which the technology is to be installed, the Commission shall assume installation of the technology in the building and then determine the allocation according to the proportion of the benefits provided to the regulated fuel and unregulated fuel sectors. In this subdivision (viii), "regulated fuel" and "unregulated fuel" shall have the same meaning as under subsection (e) of this section.

(4) Contract or order of appointment. Appointment of an entity under subdivision (2) of this subsection may be by contract or by an order of appointment. An appointment, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

(5) Appointed entity; supervision. Any entity appointed by order of appointment under subdivisions (2) and (4) of this subsection that is not an electric or gas utility already regulated under this title shall not be considered to be a company as defined under section 201 of this title, but shall be subject to the provisions of sections 18-21, 30-32, 205-208, subsection 209(a), sections 219, 221, and subsection 231(b) of this title, to the same extent as a company as defined under section 201 of this title. The Commission and the Department of Public Service shall have jurisdiction under those sections over the entity, its directors, receivers, trustees, lessees, or other persons or companies owning or operating the entity and of all plants, equipment, and property of that entity used in or about the business carried on by it in this State as covered and included in this section. This jurisdiction shall be exercised by the Commission and the Department so far as may be necessary to enable them to perform the duties and exercise the powers conferred upon them by law. The Commission and the Department each may, when they deem the public good requires, examine the plants, equipment, and property of any entity appointed by order of appointment under subdivisions (2) and (4) of this subsection.

(e) Thermal energy and process fuel efficiency funding.

**(1) Each of the following shall be used to deliver thermal energy and process fuel energy efficiency services in accordance with this section for unregulated fuels to Vermont consumers of such fuels.**

**(A) Net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the**

**activities of the energy efficiency utility designated under subdivision (2)(A) of this subsection (e) that are not transferred to the State PACE Reserve Fund under 24 V.S.A. § 3270(c). These revenues shall be deposited into the Electric Efficiency Fund established by this section.**

In delivering services with respect to heating systems using the revenues subject to this subdivision (A), the entity shall give priority to incentives for the installation of high efficiency biomass heating systems and shall have a goal of offering an incentive that is equal to 25 percent of the installed cost of such a system. In this subdivision (A), “biomass” means organic nonfossil material constituting a source of renewable energy within the meaning of section 8002 of this title. Provision of an incentive under this subdivision (A) for a biomass heating system shall not be contingent on the making of other energy efficiency improvements at the property on which the system will be installed.

(B) Net revenues above costs from the sale of carbon credits under the cap and trade program established under section 255 of this title, which shall be deposited into the Electric Efficiency Fund established by this section.

(C) Any other monies that are appropriated to or deposited in the Electric Efficiency Fund for the delivery of thermal energy and process fuel energy efficiency services.

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Commission shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

(3) In this subsection:

(A) “Efficiency services” includes the establishment of a statewide information clearinghouse under subsection (g) of this section.

(B) “Regulated fuels” means electricity and natural gas delivered by a regulated utility.

(C) “Unregulated fuels” means fuels used by thermal energy and process fuel customers other than electricity and natural gas delivered by a regulated utility.

(f) Goals and criteria; all energy efficiency programs. With respect to all energy efficiency programs approved under this section, the Commission shall:

**(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.**

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services, including the use of compensation mechanisms for any energy efficiency entity appointed under subdivision (d)(2) of this section that are based upon verified savings in energy usage and demand, and other performance targets specified by the Commission. The linkage between compensation and verified savings in energy usage and demand (and other performance targets) shall be reviewed and adjusted not less than triennially by the Commission.

(3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the State.

(4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation, including those who do not own their place of residence.

(5) Promote and ensure coordinated program delivery, including coordination with low-income weatherization programs, entities that fund and support affordable housing, regional and local efficiency entities within the State, other efficiency programs, and utility programs.

(6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third party financing and customer contributions to the cost of efficiency measures.

**(7) Provide a reasonably stable multiyear budget and planning cycle in order to promote program improvement, program stability, enhanced access to capital and personnel, improved integration of program designs with the budgets of regulated companies providing energy services, and maturation of programs and delivery resources.**

(8) Approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.

(9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.

(10) Provide for the independent evaluation of programs delivered under subsection (d) of this section.

**(11) Require that any entity appointed by the Commission under subsection (d) of this section deliver Commission-approved programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the Board's orders in Public Service Board docket 5270, and any relevant Board orders in subsequent energy efficiency proceedings.**

(12) Require verification, on or before January 1, 2003, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity appointed by the Commission to deliver energy efficiency programs under subdivision (d)(2) of this section.

**(13) Ensure that any energy efficiency program approved by the Commission shall be reasonable and cost-effective.**

**(14) Consider the impact on retail electric rates and bills of programs delivered under subsection (d) of this section and the impact on fuel prices and bills.**

(15) Ensure that the energy efficiency programs implemented under this section are designed to make continuous and proportional progress toward attaining the overall State building efficiency goals established by 10 V.S.A. § 581, by promoting all forms of energy end-use efficiency and comprehensive sustainable building design.

(g) Thermal energy and process fuel efficiency programs; additional criteria. With respect to energy efficiency programs delivered under this section to thermal energy and process fuel customers, the Commission shall:

(1) Ensure that programs are delivered on a whole-buildings basis to help meet the State's building efficiency goals established by 10 V.S.A. § 581 and to reduce greenhouse gas emissions from thermal energy and process fuel use in Vermont.

(2) Require the establishment of a statewide information clearinghouse to enable effective access for customers to and effective coordination across programs. The clearinghouse shall serve as a portal for customers to access thermal energy and process fuel efficiency services and for coordination among State, regional, and local entities involved in the planning or delivery of such services, making referrals as appropriate to service providers

and to entities having information on associated environmental issues such as the presence of asbestos in existing insulation.

(3) In consultation with the Agency of Natural Resources, establish annual interim goals starting in 2014 to meet the 2017 and 2020 goals for improving the energy fitness of housing stock stated in 10 V.S.A. § 581(1).

(4) Ensure the monitoring of the State's progress in meeting the goals of 10 V.S.A. § 581(1). This monitoring shall be performed according to a standard methodology and on a periodic basis that is not less than annual.

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(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.

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

(A) A member of the transmission or industrial electric rate classes shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of \$1.5 million during calendar year 2008.

(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant shall commit to an annual average energy efficiency investment during each three-year period that the applicant participates in the program of no less than \$1 million. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), the applicant shall make an additional annual energy efficiency investment in an amount not less than \$55,000.00.

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

(F) A participant shall provide to the Commission and Department annually an accounting of energy investments and energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure accuracy of the data provided.

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

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

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision (4)(D) of this subsection, the Commission shall terminate the participant's eligibility for the self-managed program class.

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

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

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

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

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

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

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

(L) A participant in the self-managed program class may submit projects to the independent system operator of New England, including through recognized aggregators, for payments under that operator's forward capacity market program, and shall invest such payments in electric or fuel efficiency.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity which is not the participant but may not count such funds received as part of the annual commitment to its self-managed energy efficiency program.

(N) If, at the end of every third year after an applicant's approval to participate in the self-managed efficiency program (the three-year period), the applicant has not met the



commitment required by subdivision (4)(D) of this subsection, the applicant shall pay the difference between the investment the applicant made while in the self-managed energy efficiency program and the full amount of charges and rates that the applicant would have incurred absent the exemption under subdivision (3) of this subsection. This payment shall be made no later than 90 days after the end of the three-year period to the entities to which the full amount of those charges and rates would have been paid absent the exemption.

(5) This subdivision applies to a transferee of all or substantially all of the assets at the served property of an entity approved to participate in the self-managed energy efficiency program. The Commission shall allow the transferee to continue as a participant in the self-managed energy efficiency program class in the same manner and under the same terms and conditions that the transferor participant was authorized to participate, provided:

(A) the transferor participant met the requirements of subdivision (4)(A) of this subsection (j) and the transferee otherwise meets the requirements of this subsection; and

(B) the transferee assumes the obligation to fulfill any outstanding commitment of the transferor participant under subdivision (4)(D) of this subsection.