

PROPOSED LEGISLATIVE CHANGES TO FACILITATE MUNICIPAL UTILITY CAPITAL INVESTMENT

Changes Directly Supporting VPPSA Municipal Members:

Proposal

Add a new subsection (d) to 24 V.S.A. § 1822 as follows:

(d) Notwithstanding the provisions of subsection (b) above, the legislative branch of a municipal corporation owning a municipal plant as defined in 30 V.S.A. § 2901 by resolution may authorize the issuance of bonds in an amount not to exceed 50 percent of the total assets of said municipal plant without the need for either voter approval or Public Utility Commission approval pursuant to 30 V.S.A. § 108.

Amend 30 V.S.A. § 108(c)(3) as follows (additions redlined deletions overstruck):

(3) If the Public Utility Commission issues a ruling in accordance with subdivision (1) of this subsection, or does not rule within the period specified in subdivision (2) of this subsection, a municipality must also have subsequently obtained voter approval in accordance with 24 V.S.A. chapter 53 prior to issuing bonds or notes or pledging its net revenues.

Rationale

Vermont is one of only a handful of states in the United States that regulate municipally-owned electric utilities at the State level. Vermont's municipal utilities presently are experiencing two specific challenges with raising capital within the existing regulatory framework:

- 1) There is no threshold allowing routine borrowing for operational needs (i.e. replacement of trucks, or equipment). The state approval process makes most borrowings burdensome, leading municipals to seek alternatives (delaying purchase, funding with operating funds, etc.). These strategies can lead to maintenance concerns or premature rate increases.
- 2) The requirement that a public vote occur after PUC approval of a borrowing makes it very difficult to include borrowings in regularly scheduled annual meetings or other planned votes. The existing process routinely requires a municipality to schedule and warn special meetings at significant time and expense.

The proposed changes would set a threshold of borrowing below which the utility could issue debt with only local approval, and for those cases where state approval is needed would allow the municipality to obtain the local vote on a parallel path thereby aligning with other municipal votes and reducing costs.

Changes Supporting Municipalities through VPPSA:

Proposal

Amend 30 V.S.A. § 108(b) as follows (additions redlined deletions overstruck):

(b) The provisions of this section shall ~~not~~ apply to neither Vermont Public Power Supply Authority, nor a public utility which meets each and all of the following four conditions:

And amend 30 V.S.A. § 5031(a)(4) as follows (additions redlined deletions overstruck):

(4) Bonds and notes may be issued in accordance with this chapter, without the need ~~subject to~~ obtain the consent and approval of the Public Utility Commission.

Rationale

VPPSA was created under V.S.A. Title 30 §5011 as a “public instrumentality exercising public and essential governmental functions” to support Vermont’s publicly owned electric utilities (municipal and cooperative). It has broad powers to provide joint services to members, and to allow members to enter joint ventures, including raising capital through bonds, notes, grants, and other means.

VPPSA was instrumental in allowing members to participate in the J.C. McNeil biomass plant, the Highgate Converter station, and the Swanton Peaking plant. It has also facilitated member participation in VTRANSCO, and routinely acts as an intermediary with third party power providers who consider a commitment of VPPSA’s assets to back power contracts as superior to contracts with individual members.

VPPSA’s debt is not considered an obligation of the state, nor is it considered an obligation of individual members, except to the extent that they have committed to pay for those costs through individual contracts with VPPSA.

Despite VPPSA being created to, in many ways, act like a bond bank for public power utilities, it presently is required to obtain PUC approval anytime it issues debt. This means that, for VPPSA to issue debt, approval must be received from the member utilities backing the effort, from the VPPSA Board (comprised of representatives from all members), and then from the PUC, making the timeline for any VPPSA borrowing lengthy, cumbersome, and unpredictable.

Joint Action Agencies like VPPSA are becoming the funding vehicles for helping municipal utilities across the country make the capital investments needed to address the rapid change occurring in the electric industry. Organizations like VPPSA can both combine efforts in deploying new technologies to gain economies of scale and provide centralized financing to better manage the cost structure. However, to do so the regulatory regime needs to make pooling borrowings through VPPSA attractive for members.

With the proposed changes VPPSA will be better able to access bond markets while the PUC will retain its oversight of the proceeds through use of 30 V.S.A. §108, 30 V.S.A. §248, member rate increase reviews, and its related authorities.