

1 H.431

2 Introduced by Committee on Energy and Technology

3 Date:

4 Subject: Public service; occupational safety and health; accident reporting and
5 investigation; Public Records Act exemptions; cybersecurity; energy
6 storage; Public Utility Commission jurisdiction and adoption of rules;
7 Nuclear Decommissioning Citizens Advisory Panel

8 Statement of purpose of bill as introduced: This bill proposes to amend
9 statutes concerning utilities and the reporting and investigation of accidents,
10 the Public Records Act and cybersecurity, and energy storage; to authorize the
11 adoption of rules by the Public Utility Commission; and to amend the Nuclear
12 Decommissioning Citizens Advisory Panel.

13 An act relating to miscellaneous energy subjects

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

15 * * * Occupational Safety and Health * * *

16 Sec. 1. 30 V.S.A. § 207 is amended to read:

17 § 207. REPORT OF ACCIDENTS; INVESTIGATION

18 The superintendent or manager of any line or plant, subject to supervision
19 under this chapter, shall, immediately after its occurrence, notify the

1 Department in writing of any accident that occurs within this State
2 ~~immediately after its occurrence~~, upon such line or plant ~~resulting~~ that results
3 in loss of life or injury to any person that shall ~~incapacitate~~ incapacitates him
4 or her from engaging in his or her usual vocations. ~~The~~ If the accident is
5 subject to investigation by VOSHA pursuant to 21 V.S.A. chapter 3,
6 subchapters 4 and 5, the Department shall provide support as requested by
7 VOSHA, and VOSHA shall, to the extent permitted by law, provide the
8 Department with any information pertaining to the investigation that is
9 requested by the Department. If the accident it not subject to investigation by
10 VOSHA, the Department shall inquire into the cause of every such the
11 accident, and if, in its judgment, a public investigation is necessary, it shall fix
12 a time and place of holding the same, and shall thereupon proceed as provided
13 in 5 V.S.A. § 3454 relating to investigation of accidents upon railroads shall
14 make any recommendations to the company and to the Public Utility
15 Commission as appropriate.

16 * * * Public Records Act * * *

17 Sec. 2. 1 V.S.A. § 317 is amended to read:

18 § 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
19 DOCUMENTS; EXEMPTIONS

20 * * *

1 (c) The following public records are exempt from public inspection and
2 copying:

3 * * *

4 (43) Records relating to a regulated utility’s cybersecurity program,
5 assessments, and plans, including all reports, summaries, compilations,
6 analyses, notes, or other cybersecurity information.

7 * * *

8 * * * Energy Storage * * *

9 Sec. 3. 10 V.S.A. § 6001 is amended to read:

10 § 6001. DEFINITIONS

11 ~~In~~ As used in this chapter:

12 * * *

13 (3)(A) “Development” means each of the following:

14 * * *

15 (D) The word “development” does not include:

16 * * *

17 (ii) The construction of improvements for an electric generation,
18 energy storage, or transmission facility that requires a certificate of public
19 good under 30 V.S.A. § 248, or is subject to regulation under 30 V.S.A.
20 § 8011, a natural gas facility as defined in 30 V.S.A. § 248(a)(3), or a

1 telecommunications facility issued a certificate of public good under 30 V.S.A.
2 § 248a.

3 * * *

4 Sec. 4. 24 V.S.A. § 4413 is amended to read:

5 § 4413. LIMITATIONS ON MUNICIPAL BYLAWS

6 * * *

7 (b) A bylaw under this chapter shall not regulate public utility power
8 generating plants, energy storage facilities, and transmission facilities
9 regulated under 30 V.S.A. § 248 or subject to regulation under 30 V.S.A.
10 § 8011.

11 * * *

12 Sec. 5. 30 V.S.A. § 201 is amended to read:

13 § 201. DEFINITIONS

14 As used in this chapter:

15 * * *

16 (4) “Energy storage facility” means a stationary device or system that
17 captures energy produced at one time, stores that energy for a period of time,
18 and delivers or may deliver that energy as electricity to the grid for use at a
19 future time ~~uses mechanical, chemical, or thermal processes to store energy for~~
20 ~~export to the grid.~~

1 (5) “Energy storage aggregation” means a virtual resource formed by
2 combining multiple stationary energy storage devices at different points of
3 interconnection on the distribution system.

4 (6) “Energy storage aggregator” means an entity other than a
5 distribution utility that is operating an energy storage aggregation of 100 kW
6 or greater aggregate nameplate capacity, unless the Commission establishes a
7 larger threshold by rule.

8 Sec. 6. 30 V.S.A. § 203 is amended to read:

9 § 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

10 * * *

11 (1) A company engaged in the manufacture, transmission, distribution,
12 storage, or sale of gas or electricity directly to the public or to be used
13 ultimately by the public for lighting, heating, or power and so far as relates to
14 their use or occupancy of the public highways.

15 (2) That part of the business of a company that consists of the
16 manufacture, transmission, distribution, storage, or sale of gas or electricity
17 directly to the public or to be used ultimately by the public for lighting,
18 heating, or power and so far as relates to their use or occupancy of the public
19 highways.

20 * * *

21 Sec. 7. 30 V.S.A. § 209 is amended to read:

1 § 209. JURISDICTION; GENERAL SCOPE

2 * * *

3 (k) Energy storage facilities. Except when owned by a retail distribution
4 utility, an energy efficiency utility, or the Vermont Electric Power Company,
5 Inc., competitive suppliers of energy storage services that do not serve retail
6 customers shall be exempt from sections 107, 108, and 109 of this title.

7 Sec. 8. 30 V.S.A. § 231 is amended to read:

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

10 * * *

11 (c) For an energy storage facility not already subject to this section, an
12 energy storage aggregator that operates an energy storage facility is subject to
13 this section only if the aggregator is not a retail electric provider.

14 Sec. 9. 30 V.S.A. § 248 is amended to read:

15 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
16 FACILITIES; CERTIFICATE OF PUBLIC GOOD

17 (a)(1) No company, as defined in section 201 of this title, may:

18 * * *

19 (4)(A) With respect to a facility located in the State, in response to a
20 request from one or more members of the public or a party, the Public Utility
21 Commission shall hold a nonevidentiary public hearing on a petition for such

1 finding and certificate in at least one county in which any portion of the
2 construction of the facility is proposed to be located. The Commission in its
3 discretion may hold a nonevidentiary public hearing in the absence of any
4 request from a member of the public or a party. From the comments made at a
5 public hearing, the Commission shall derive areas of inquiry that are relevant
6 to the findings to be made under this section and shall address each such area
7 in its decision. Prior to making findings, if the record does not contain
8 evidence on such an area, the Commission shall direct the parties to provide
9 evidence on the area. This subdivision does not require the Commission to
10 respond to each individual comment.

11 * * *

12 (F) The following shall apply to the participation of the Agency of
13 Agriculture, Food and Markets in proceedings held under this subsection:

14 (i) In any proceeding regarding an electric generation facility that
15 will have a capacity greater than 500 kilowatts or an energy storage facility
16 that will have a capacity greater than 1 megawatt and will be sited on a tract
17 containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
18 Agency shall appear as a party and provide evidence and recommendations
19 concerning any findings to be made under subdivision (b)(5) of this section on
20 those soils, and may provide evidence and recommendations concerning any
21 other matters to be determined by the Commission in such a proceeding.

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* * *

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts and to an application for an energy storage facility that is greater than 1 megawatt, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Commission, the application for such a facility shall include information that delineates:

* * *

(k)(1) Notwithstanding any other provisions of this section, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility, ~~or a generation facility,~~ or an energy storage facility as necessary to ensure the stability or reliability of the electric system or a natural gas facility, pending full review under this section.

* * *

(l) Notwithstanding other provisions of this section, and without limiting any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and (11), when the Governor has proclaimed a state of emergency pursuant to 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public Utility Commission and the Commissioner of Public Service or their

1 designees, may waive the prohibitions contained in this section upon site
2 preparation for or construction of an electric transmission facility, ~~or a~~
3 generation facility, or an energy storage facility as necessary to ensure the
4 stability or reliability of the electric system or a natural gas facility. Waivers
5 issued under this subsection shall be subject to such conditions as are required
6 by the Governor, and shall be valid for the duration of the declared emergency
7 plus 180 days, or such lesser overall term as determined by the Governor.
8 Upon the expiration of a waiver under this subsection, if a certificate of public
9 good has not been issued under this section, the Commission shall require the
10 removal, relocation, or alteration of the facilities, subject to the waiver, as the
11 Commission finds will best promote the general good of the State.

12 * * *

13 (u) For an energy storage facility, A certificate under this section shall
14 only be required for an energy storage a stationary facility exporting to the grid
15 that has a capacity of 500 100 kW or greater, unless the Commission
16 establishes a larger threshold by rule. The Commission shall establish a
17 simplified application process for energy storage facilities subject to this
18 section with a capacity of up to 1 MW, unless it establishes a larger threshold
19 by rule. For facilities eligible for this simplified application process, a
20 certificate of public good will be deemed issued by the Commission by the
21 thirty-first day following filing of a complete application, unless a substantive

1 objection is timely filed with the Commission or the Commission itself raises
2 an issue. The Commission may require facilities eligible for the simplified
3 application process to include a letter from the interconnecting utility
4 indicating the absence or resolution of interconnection issues as part of the
5 application.

6 Sec. 10. 30 V.S.A. § 8002 is amended to read:

7 § 8002. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (30) “Energy storage facility” means a stationary device or system that
11 captures energy produced at one time, stores that energy for a period of time,
12 and delivers or may deliver that energy as electricity to the grid for use at a
13 future time.

14 Sec. 11. 30 V.S.A. § 8011 is added to read:

15 § 8011. ENERGY STORAGE FACILITIES

16 The Commission may adopt and implement rules that govern the
17 installation and operation of energy storage facilities of all sizes.

18 (1) The rules may establish a size threshold below which storage
19 facilities need not submit an application for a certificate of public good
20 pursuant to section 248 of this title.

21 (2) The rules may include provisions that govern:

1 (A) the respective duties of retail electricity providers and energy
2 storage facility owners or operators;

3 (B) the electrical and fire safety, power quality, interconnection,
4 metering, and decommissioning of energy storage facilities;

5 (C) the resolution of disputes between energy storage facility owners,
6 operators, and the interconnecting provider;

7 (D) energy storage aggregators and the operation of aggregations;
8 and

9 (E) energy storage facilities paired with other resources, such as net
10 metering and standard offer plants, including retrofits of existing plants.

11 (3) The rules shall establish standards and procedures governing
12 application for and issuance or revocation of a certificate of public good for
13 certain energy storage facilities under the provisions of section 248 of this title.
14 In establishing these standards and procedures, the rules may:

15 (A) waive the requirements of section 248 of this title that are not
16 applicable to energy storage facilities, including criteria that are generally
17 applicable to public service companies as defined in this title;

18 (B) modify notice and hearing requirements of this title as the
19 Commission considers appropriate; and

20 (C) seek to simplify the application and review process.

1 Sec. 12. PUBLIC UTILITY COMMISSION RULEMAKING;
2 INTERCONNECTION RULE

3 On or before March 15, 2022, the Public Utility Commission shall propose
4 an updated interconnection rule that:

5 (1) incorporates energy storage facilities with a capacity of 1 MW or
6 more; and

7 (2) incorporates a simplified process for energy storage facilities with a
8 capacity of between 100 kW and 1 MW.

9 * * * Nuclear Decommissioning Citizens Advisory Panel * * *

10 Sec. 13. 18 V.S.A. § 1700 is amended to read:

11 § 1700. CREATION; MEMBERSHIP; OFFICERS; QUORUM

12 (a) There is created the Nuclear Decommissioning Citizens Advisory Panel
13 that shall consist of the following:

14 (1) The Secretary of Human Services, ex officio, or designee.

15 (2) The Secretary of Natural Resources, ex officio, or designee.

16 (3) The Commissioner of Public Service, ex officio, or designee.

17 (4) The Secretary of Commerce and Community Development, ex
18 officio, or designee.

19 (5) One member of the House Committee on Energy and Technology,
20 chosen by the Speaker of the House.

1 (6) One member of the Senate Committee on Natural Resources and
2 Energy, chosen by the Committee on Committees.

3 (7) One representative of the Windham Regional Commission or
4 designee, selected by the Regional Commission.

5 (8) ~~One representative~~ Two representatives of the Town of Vernon or
6 designee designees, selected by the legislative body of that town.

7 (9) Six members of the public, two each selected by the Governor, the
8 Speaker of the House, and the President Pro Tempore of the Senate. Under
9 this subdivision, each appointing authority initially shall appoint a member for
10 a three-year term and a member for a four-year term. Subsequent
11 appointments under this subdivision shall be for terms of four years.

12 (10) Two representatives of the owners of the Vermont Yankee Nuclear
13 Power Station (VYNPS or Station) selected by the owner of the Station site.

14 (11) ~~A representative of the International Brotherhood of Electric~~
15 ~~Workers (IBEW) selected by the IBEW who shall be a present or former~~
16 ~~employee at the VYNPS.~~

17 (12) One optional member who will represent collectively the Towns of
18 Chesterfield, Hinsdale, Richmond, Swanzey, and Winchester, New Hampshire,
19 when selected by the Governor of New Hampshire at the invitation of the
20 Commissioner of Public Service.

1 ~~(13)~~(12) One optional member who will represent collectively the
2 Towns of Bernardston, Colrain, Gill, Greenfield, Leyden, Northfield, and
3 Warwick, Massachusetts, when selected by the Governor of Massachusetts at
4 the invitation of the Commissioner of Public Service.

5 (b) Ex officio members shall serve for the duration of their time in office
6 or until a successor has been appointed. Members of the General Assembly
7 shall be appointed for two years or until their successors are appointed,
8 beginning on or before January 15 in the first year of the biennium.
9 Representatives designated by ex officio members shall serve at the direction
10 of the designating authority.

11 * * *

12 (f) Members of the panel who are not ex officio members, employees of
13 the State of Vermont, representatives of the VYNPS owners of the Vermont
14 Yankee site, or members representing towns outside Vermont, and who are not
15 otherwise compensated or reimbursed for their attendance, shall be entitled to
16 \$50.00 per diem and their necessary and actual expenses. Funds for this
17 purpose shall come from the monies collected under 30 V.S.A. § 22 for the
18 purpose of maintaining the Department of Public Service. Legislative
19 members shall not be entitled to a per diem under this section for meetings
20 while the General Assembly is in session.

21 (g) The Commissioner of Public Service shall:

1 * * *

2 (6) hire experts, contract for services, and provide for materials and
3 other reasonable and necessary expenses of the Panel as the Commissioner
4 may consider appropriate on request of the Panel from time to time. Funds for
5 this purpose shall come from the ~~monies collected under 30 V.S.A. § 22 for the~~
6 ~~purpose of maintaining the Department of Public Service and such other~~
7 ~~sources as may be or become available.~~ owners of the Vermont Yankee site as
8 the Commissioner of Public Service may consider appropriate, not to exceed
9 \$35,000.00 annually. The obligation to support the Panel's activities shall
10 cease upon the submission of the application for Partial License Termination
11 by the owners of the Vermont Yankee site to the U.S. Nuclear Regulatory
12 Commission. On or before June 30 annually, the Commissioner of Public
13 Service shall render to the owners of the Vermont Yankee site a statement
14 detailing the amount of money expended or contracted for under this
15 subdivision (6), which shall be paid within 30 days by the owners of the
16 Vermont Yankee site into the special fund established pursuant to 30 V.S.A.
17 § 22 for the purpose of maintaining the Department of Public Service and
18 Public Utility Commission. The funds paid into the special fund by the
19 owners of the Vermont Yankee site shall be paid solely to the Department.
20 Within 30 days after receiving the statement of funds due, the owners of the
21 Vermont Yankee site may petition the Public Utility Commission for a hearing

1 to review and determine the necessity and reasonableness of such expenses.

2 Following the review, the Public Utility Commission may amend or revise the
3 cost assessments as it deems appropriate.

4 Sec. 14. 18 V.S.A. § 1701 is amended to read:

5 § 1701. DUTIES

6 The Panel shall serve in an advisory capacity only and shall not have
7 authority to direct decommissioning of the ~~VYNPS~~ Vermont Yankee site. The
8 duties of the Panel shall be:

9 (1) To hold a minimum of ~~four~~ three public meetings each year for the
10 purpose of discussing issues relating to the decommissioning of ~~the VYNPS~~
11 Vermont Yankee. The Panel may hold additional meetings.

12 (2) To advise the Governor, the General Assembly, the agencies of the
13 State, and the public on issues related to the decommissioning of ~~the VYNPS~~
14 Vermont Yankee, with a written report being provided annually to the
15 Governor and to the energy committees of the General Assembly. The
16 provisions of 2 V.S.A. § 20(d) (expiration of reports) shall not apply to this
17 report.

18 (3) To serve as a conduit for public information and education on and to
19 encourage community involvement in matters related to the decommissioning
20 of ~~the VYNPS~~ Vermont Yankee and to receive written reports and

1 presentations on the decommissioning of the ~~Station~~ site at its regular
2 meetings.

3 (4) To periodically receive reports, including those required by the
4 Public Utility Commission Docket No. 8880 Order, on the Decommissioning
5 Trust Fund and other funds associated with decommissioning of or site
6 restoration at ~~the VYNPS~~ Vermont Yankee, including fund balances,
7 expenditures made, and reimbursements received.

8 (5) To receive reports and presentations at regular meetings regarding
9 the decommissioning progress and plans for ~~the VYNPS~~ Vermont Yankee,
10 including any site assessments and post-shutdown decommissioning
11 assessment reports; provide a forum for receiving public comment on these
12 plans and reports; and ~~to~~ provide comment on these plans and reports as the
13 Panel may consider appropriate to State agencies and the owner of ~~the VYNPS~~
14 Vermont Yankee and in the annual report described in subdivision (2) of this
15 subsection.

16 Sec. 15. 18 V.S.A. § 1702 is amended to read:

17 § 1702. ASSISTANCE

18 The Department of Public Service, the Agency of Human Services, and the
19 Agency of Natural Resources shall furnish administrative support to the Panel,
20 with assistance from the owners of the ~~VYNPS~~ Vermont Yankee site as the
21 Commissioner of Public Service may consider appropriate.

1

* * * Effective Dates * * *

2

Sec. 16. EFFECTIVE DATES

3

This act shall take effect on July 1, 2021, except that Sec. 9 (30 V.S.A.

4

§ 248) shall take effect on December 31, 2022.