

1 Introduced by Committee on Energy and Technology

2 Date:

3 Subject: Public service; occupational safety and health; accident reporting and
4 investigation; Public Records Act exemptions; cybersecurity; energy
5 storage; Public Utility Commission jurisdiction and adoption of rules

6 Statement of purpose of bill as introduced: This bill proposes to amend
7 statutes concerning utilities and the reporting and investigation of accidents,
8 the Public Records Act and cybersecurity, and energy storage and to authorize
9 the adoption of rules by the Public Utility Commission.

10 An act relating to utilities and the reporting and investigation of accidents,
11 the Public Records Act and cybersecurity, energy storage, and the adoption
12 of rules by the Public Utility Commission

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

14 * * * Occupational Safety and Health * * *

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

16 § 207. REPORT OF ACCIDENTS; INVESTIGATION

17 The superintendent or manager of any line or plant, subject to supervision
18 under this chapter, shall, immediately after its occurrence, notify the
19 Department in writing of any accident that occurs within this State
20 ~~immediately after its occurrence~~, upon such line or plant ~~resulting~~ that results
21 in loss of life or injury to any person that ~~shall incapacitate~~ incapacitates him

1 or her from engaging in his or her usual vocations. ~~The~~ If the accident is
2 subject to investigation by VOSHA pursuant to 21 V.S.A. chapter 3,
3 subchapters 4 and 5, the Department shall provide support as requested by
4 VOSHA, and VOSHA shall, to the extent permitted by law, provide the
5 Department with any information pertaining to the investigation that is
6 requested by the Department. If the accident it not subject to investigation by
7 VOSHA, the Department shall inquire into the cause of ~~every such the~~
8 accident; and ~~if, in its judgment, a public investigation is necessary, it shall fix~~
9 ~~a time and place of holding the same, and shall thereupon proceed as provided~~
10 ~~in 5 V.S.A. § 3454 relating to investigation of accidents upon railroads~~ shall
11 make any recommendations to the company and to the Public Utility
12 Commission as appropriate.

13 * * * Public Records Act * * *

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

15 § 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND

16 DOCUMENTS; EXEMPTIONS

17 * * *

18 (c) The following public records are exempt from public inspection and
19 copying:

20 * * *

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

2 § 4413. LIMITATIONS ON MUNICIPAL BYLAWS

3 * * *

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

8 * * *

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

10 § 201. DEFINITIONS

11 As used in this chapter:

12 * * *

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

17 (5) “Energy storage aggregation” means a virtual resource formed by
18 aggregating multiple energy storage devices at different points of
19 interconnection on the distribution system.

20 (6) “Merchant energy storage aggregator” means an entity other than a
21 distribution utility that is operating an energy storage aggregation of 100 kW

1 or greater aggregate nameplate capacity, unless the Commission establishes a
2 different threshold by rule or order.

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

4 § 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

5 * * *

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

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

15 * * *

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

17 § 209. JURISDICTION; GENERAL SCOPE

18 * * *

19 (k) Energy storage facilities. Except when owned by a retail distribution
20 utility, an energy efficiency utility, or the Vermont Electric Power Company,

1 Inc., competitive suppliers of energy storage services that do not serve retail
2 customers shall be exempt from sections 107, 108, and 109 of this title.

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

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

6 * * *

7 (c) For energy storage facilities not already subject to this section, a person
8 that owns or operates an energy storage facility is subject to this section only if
9 the person is a merchant energy storage aggregator.

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

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

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

14 * * *

15 (4)(A) With respect to a facility located in the State, in response to a
16 request from one or more members of the public or a party, the Public Utility
17 Commission shall hold a nonevidentiary public hearing on a petition for such
18 finding and certificate in at least one county in which any portion of the
19 construction of the facility is proposed to be located. The Commission in its
20 discretion may hold a nonevidentiary public hearing in the absence of any
21 request from a member of the public or a party. From the comments made at a

1 public hearing, the Commission shall derive areas of inquiry that are relevant
2 to the findings to be made under this section and shall address each such area
3 in its decision. Prior to making findings, if the record does not contain
4 evidence on such an area, the Commission shall direct the parties to provide
5 evidence on the area. This subdivision does not require the Commission to
6 respond to each individual comment.

7 * * *

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

10 (i) In any proceeding regarding an electric generation facility that
11 will have a capacity greater than ~~500~~ 100 kilowatts or an energy storage
12 facility that will have a capacity greater than 1 megawatt and will be sited on a
13 tract containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
14 Agency shall appear as a party and provide evidence and recommendations
15 concerning any findings to be made under subdivision (b)(5) of this section on
16 those soils, and may provide evidence and recommendations concerning any
17 other matters to be determined by the Commission in such a proceeding.

18 * * *

19 (J) This subdivision (J) applies to an application for an electric
20 generation facility with a capacity that is greater than 50 kilowatts and to an
21 application for an energy storage facility that is greater than 1 megawatt, unless

1 the facility is located on a new or existing structure the primary purpose of
2 which is not the generation of electricity. In addition to any other information
3 required by the Commission, the application for such a facility shall include
4 information that delineates:

5 * * *

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

12 * * *

13 (l) Notwithstanding other provisions of this section, and without limiting
14 any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and
15 (11), when the Governor has proclaimed a state of emergency pursuant to
16 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public
17 Utility Commission and the Commissioner of Public Service or their
18 designees, may waive the prohibitions contained in this section upon site
19 preparation for or construction of an electric transmission facility, ~~or a~~
20 generation facility, or an energy storage facility as necessary to ensure the
21 stability or reliability of the electric system or a natural gas facility. Waivers

1 issued under this subsection shall be subject to such conditions as are required
2 by the Governor, and shall be valid for the duration of the declared emergency
3 plus 180 days, or such lesser overall term as determined by the Governor.

4 Upon the expiration of a waiver under this subsection, if a certificate of public
5 good has not been issued under this section, the Commission shall require the
6 removal, relocation, or alteration of the facilities, subject to the waiver, as the
7 Commission finds will best promote the general good of the State.

8 * * *

9 (u) A certificate under this section shall only be required for an energy
10 storage facility that has a capacity of ~~500~~ 100 kW or greater, unless the
11 Commission establishes a different threshold by rule or order.

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

13 § 8002. DEFINITIONS

14 As used in this chapter:

15 * * *

16 (30) “Energy storage facility” means a device or system that captures
17 energy produced at one time, stores that energy for a period of time, and
18 delivers that energy as electricity for use at a future time.

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

20 § 8011. ENERGY STORAGE FACILITIES

1 The Commission shall adopt and implement rules that govern the
2 installation and operation of energy storage facilities.

3 (1) The rules may establish a size threshold below which storage
4 facilities need not submit an application or registration for a certificate of
5 public good pursuant to section 248 of this title. However, such systems may
6 be required to comply with rules pertaining to small storage systems as
7 determined by the Commission.

8 (2) The rules shall include provisions that govern:

9 (A) the respective duties of retail electricity providers and energy
10 storage facility owners;

11 (B) the electrical and fire safety, power quality, interconnection,
12 metering, and disposal of energy storage facilities;

13 (C) the formation of aggregations of energy storage facilities and the
14 resolution of disputes between energy storage facility owners and the
15 interconnecting provider; and

16 (D) energy storage facilities paired with other resources, such as net
17 metering and standard offer plants, including retrofits of existing plants.

18 (3) The rules shall establish standards and procedures governing
19 application for and issuance or revocation of a certificate of public good for
20 energy storage facilities under the provisions of section 248 of this title. In
21 establishing these standards and procedures the rules may:

