

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

4 * * *

5 * * * Energy Storage * * *

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

7 § 6001. DEFINITIONS

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

9 * * *

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

11 * * *

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

13 * * *

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

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 **stationary** device or system that
14 captures energy produced at one time, stores that energy for a period of time,
15 and delivers **or may deliver** that energy as electricity **to the grid** for use at a
16 future time ~~uses mechanical, chemical, or thermal processes to store energy for~~
17 ~~export to the grid.~~

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

1 (6) “~~Merchant eEnergy~~ storage aggregator” means an entity other than
2 a distribution utility that is operating an energy storage aggregation of 100 kW
3 or greater aggregate nameplate capacity, unless the Commission establishes a
4 different larger threshold by rule ~~or order~~.

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

6 § 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

7 * * *

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

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

17 * * *

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

19 § 209. JURISDICTION; GENERAL SCOPE

20 * * *

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

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

6 § 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF
7 SERVICE; HEARING

8 * * *

9 (c) For energy storage facilities not already subject to this section, **an**
10 **energy storage aggregator person that owns or operates dispatches an**
11 energy storage facility is subject to this section only if the person is **not a**
12 **retail electric provider.**

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

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

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

17 * * *

18 (4)(A) With respect to a facility located in the State, in response to a
19 request from one or more members of the public or a party, the Public Utility
20 Commission shall hold a nonevidentiary public hearing on a petition for such
21 finding and certificate in at least one county in which any portion of the

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

10 * * *

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

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

21 * * *

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

8 * * *

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

15 * * *

16 (l) Notwithstanding other provisions of this section, and without limiting
17 any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and
18 (11), when the Governor has proclaimed a state of emergency pursuant to
19 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public
20 Utility Commission and the Commissioner of Public Service or their
21 designees, may waive the prohibitions contained in this section upon site

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


11 * * *

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

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

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

6 § 8002. DEFINITIONS


7 As used in this  chapter:


8 * * *

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

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

13 § 8011. ENERGY STORAGE  FACILITIES

14 The Commission **shall may** adopt and implement rules that govern the
15 installation and operation of energy storage facilities. 

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

21 (2) The rules **shall 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 **disposal-decommissioning** of energy storage facilities;

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

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

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

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

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

19 (B) **modify reduce or waive** notice and hearing requirements of this
20 title as the Commission considers appropriate; and

1 (C) seek to simplify the application and review process **as**
2 **appropriate.**

3 **Sec. 12. INTERCONNECTION RULEMAKING**

4 **By March 15, 2022, the Public Utility Commission shall propose an**
5 **updated interconnection rule that:**

6 **(1) Incorporates energy storage facilities with a capacity of 1 MW or**
7 **more that export electricity to the grid.**

8 **(2) Incorporates a simplified process for energy storage facilities with**
9 **a capacity of between 100 kW and 1 MW that export electricity to**
10 **the grid.**

11 **(3) Recognizes the physical and operational characteristics and**
12 **benefits of energy storage facilities and facilitates their utilization**
13 **including in grid constrained areas.**

14 **(4) If a system impact study for a proposed energy storage facility is**
15 **deemed necessary it shall be based on the designed net export**
16 **capacity of the facility.**

17 **(5) Establishes a mechanism to track utility compliance with deadlines**
18 **set by the PUC's rule; interconnection performance and**
19 **interconnecting customer satisfaction; time and cost to the**
20 **interconnecting customer of interconnection for various plant**

1 **types, technologies and sizes of interconnecting electricity**
2 **generation and energy storage systems.**

3

4 * * * Effective Date * * *

5 Sec. **123**. EFFECTIVE DATE

6 This act shall take effect on July 1, 2021, **except that Sec. 9 (Certificate of**
7 **Public Good) shall take effect July 1, 2022.**