

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 \* \* \*

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

6 \* \* \*

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

8 § 201. DEFINITIONS

9 As used in this chapter:

10 \* \* \*

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

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

19 (6) “~~Merchant e~~Energy storage aggregator” means an entity other than a  
20 distribution utility that is operating an energy storage aggregation of 100 kW  
21 or greater aggregate nameplate capacity, unless the Commission establishes a  
22 larger ~~different~~ threshold by rule or order.

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

2 § 203. JURISDICTION OF CERTAIN PUBLIC UTILITIES

3 \* \* \*

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

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

13 \* \* \*

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

15 § 209. JURISDICTION; GENERAL SCOPE

16 \* \* \*

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

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

22 § 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF

1 SERVICE; HEARING

2 \* \* \*

3 (c) For energy storage facilities not already subject to this section, an  
4 energy storage aggregator ~~person that owns or operates~~ dispatches an energy  
5 storage facility is subject to this section only if the person is not subject to 30  
6 V.S.A. § 203. a merchant energy storage aggregator.

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

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

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

11 \* \* \*

12 (4)(A) With respect to a facility located in the State, in response to a  
13 request from one or more members of the public or a party, the Public Utility  
14 Commission shall hold a nonevidentiary public hearing on a petition for such  
15 finding and certificate in at least one county in which any portion of the  
16 construction of the facility is proposed to be located. The Commission in its  
17 discretion may hold a nonevidentiary public hearing in the absence of any  
18 request from a member of the public or a party. From the comments made at a  
19 public hearing, the Commission shall derive areas of inquiry that are relevant  
20 to the findings to be made under this section and shall address each such area  
21 in its decision. Prior to making findings, if the record does not contain  
22 evidence on such an area, the Commission shall direct the parties to provide

1 evidence on the area. This subdivision does not require the Commission to  
2 respond to each individual comment.

3 \* \* \*

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

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

14 \* \* \*

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

22 \* \* \*

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

7 \* \* \*

8 (l) Notwithstanding other provisions of this section, and without limiting  
9 any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and  
10 (11), when the Governor has proclaimed a state of emergency pursuant to  
11 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public  
12 Utility Commission and the Commissioner of Public Service or their  
13 designees, may waive the prohibitions contained in this section upon site  
14 preparation for or construction of an electric transmission facility, ~~or a~~  
15 generation facility, or an energy storage facility as necessary to ensure the  
16 stability or reliability of the electric system or a natural gas facility. Waivers  
17 issued under this subsection shall be subject to such conditions as are required  
18 by the Governor, and shall be valid for the duration of the declared emergency  
19 plus 180 days, or such lesser overall term as determined by the Governor.  
20 Upon the expiration of a waiver under this subsection, if a certificate of public  
21 good has not been issued under this section, the Commission shall require the



1 removal, relocation, or alteration of the facilities, subject to the waiver, as the  
2 Commission finds will best promote the general good of the State.

3 \* \* \*

4 (u) For an energy storage facility, A a certificate under this section shall  
5 only be required for ~~an energy storage~~ a stationary facility exporting to the grid  
6 that has a capacity of ~~500~~ 100 kW or greater, ~~unless the Commission~~  
7 establishes a larger different threshold by rule or order. The Commission shall  
8 establish a simplified certificate application process that includes notification  
9 to the interconnecting utility for a stationary facility exporting to the grid that  
10 has a capacity of greater than 100 kW and up to 1 MW, unless the Commission  
11 establishes a larger threshold by rule. Unless a substantive objection is timely  
12 filed with the Commission, a CPG will be deemed issued by the Commission  
13 by the thirty-first day following filing of a complete application. A stationary  
14 facility that has a capacity of 100 kW or less must be installed in compliance  
15 with electrical and safety code standards identified by the Commission via  
16 rule.

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

18 § 8002. DEFINITIONS

19 As used in this chapter:

20 \* \* \*

1 (18) "Plant" means an independent technical facility that generates electricity  
2 from renewable energy. A group of facilities, such as wind turbines, shall be  
3 considered independent technical facilities and not a ~~one~~ plant if

4 (a) each facility has separate and distinct inverters, transformers and  
5 production meters; and

6 (b) separate points of interconnection to the electric grid. A point of  
7 interconnection means the point at which the interconnection between  
8 the interconnecting utility's electrical system and the renewable energy  
9 generator's equipment interface. An electric distribution line owned by  
10 a utility shall not be considered a common interconnection line to the  
11 electric grid. ~~the group is part of the same project and uses common~~  
12 equipment and infrastructure such as roads, control facilities, and  
13 connections to the electric grid. ~~Common ownership, contiguity in time~~  
14 of construction, and proximity of facilities to each other shall be  
15 relevant to determining whether a group of facilities is part of the same  
16 project.

17 Renewable energy facilities in close proximity shall not be considered a  
18 single plant if each is an independent technical facility.

19 \* \* \*

20 (30) "Energy storage facility" means a stationary device or system that  
21 captures energy produced at one time, stores that energy for a period of time,  
22 and delivers or may deliver that energy as electricity for use at a future time.

Commented [REV1]: Recommended by REV

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

2 § 8011. ENERGY STORAGE FACILITIES

3 Legislative Findings

4 a) The General Assembly finds that:

5 (1) The health and safety of Vermont's residents and visitors, as  
6 well as the economy of the State depend on a reliable and  
7 efficient electricity and electrical distribution and  
8 transmission system.

9 (2) It is in the public interest to limit barriers to the installation,  
10 interconnection, and use of customer-sited renewable  
11 electricity, heating and transportation.

12 (3) It is in the public interest to encourage utilization of energy  
13 storage to maximize grid efficiency, reliability, and the  
14 value and benefits of renewable energy generation in  
15 Vermont.

16 b) By March 15, 2022, the Public Utility Commission shall propose an  
17 updated interconnection rule that:

18 a. Incorporates energy storage facilities with a capacity of 1 MW  
19 kW or more that export electricity to the grid.

20 b. Incorporates a simplified process for energy storage facilities  
21 with a capacity of less than 1 MW and up to 100 kW that export  
22 electricity to the grid.

**Commented [REV2]:** Generally feel that this is too broad as proposed by DPS. Legislative intent also needs to be clarified / stated to provide direction / guidance to PUC.

**Commented [REV3]:** Recommended by REV

**Commented [REV4]:** Recommended by REV

1 c. Recognizes the physical and operational characteristics and  
2 benefits of energy storage facilities and facilitates their  
3 utilization including in grid constrained areas.

4 d. If a system impact study for a proposed energy storage facility  
5 is deemed necessary it shall be based on the designed net export  
6 capacity of the facility.

7 e. Establishes a mechanism to track utility compliance with  
8 deadlines set by the PUC's rule; interconnection performance  
9 and interconnecting customer satisfaction; time and cost to the  
10 interconnecting customer of interconnection for various plant  
11 types, technologies and sizes of interconnecting electricity  
12 generation and energy storage systems.

13  
14  
15 The Commission shall-may adopt and implement rules that govern the  
16 installation and operation of energy storage facilities.

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

22 (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 decommissioning disposal of energy storage facilities;

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

8           (D) energy storage aggregators;

9           (D) 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 reduce or waive notice and hearing requirements of this  
19 title as the Commission considers appropriate; and

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

**Commented [REV5]:** Regulated by international safety & electrical code (UL 1741, IEE 1547) and VT Dept. of Public Safety.

**Commented [REV6]:** Regulated by solid / hazardous waste law. ANR jurisdiction.

**Commented [REV7]:** Regulated by FERC & ISO, state may be federally pre-empted. Language too board and unclear as to purpose or scope of authority.

**Commented [REV8]:** Still refining language w/ stakeholders

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(4) The rules shall establish peak load reduction and energy storage procurement targets for electric utilities.

**Commented [REV9]:** Recommended by REV

Sec. 12. XXXXX is amended to read:

**Commented [REV10]:** Insert tax certainty language here.

\* \* \*

Sec. 13.

(a) The provisions of this act shall supersede any provisions to the contrary contained with the Public Utility Commission's rules as they existed immediately prior to the effective date of this act.

\* \* \* Effective Date \* \* \*

Sec. 14~~2~~. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

**Commented [PSD11]:** One option is to have Sec. 9 (threshold of 100 kW for 248 review) be July 1, 2022 (or some later date that gives time for the development of appropriate waivers to criteria and process)

**Commented [REV12R11]:** Support this suggestion.