

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 1 entitled  
3 “An act relating to” respectfully reports that it has considered the same and  
4 recommends that the bill be amended by striking out all after the enacting  
5 clause and inserting in lieu thereof the following:

6 Sec. 1. 30 V.S.A. § 8009 is amended to read:

7 § 8009. BASELOAD RENEWABLE POWER PORTFOLIO  
8 REQUIREMENT

9 (a) ~~It~~ As used in this section:

10 (1) “Baseload renewable power” means a plant that generates electricity  
11 from renewable energy; that, during normal operation, is capable of taking all  
12 or part of the minimum load on an electric transmission or distribution system;  
13 and that produces electricity essentially continuously at a constant rate.

14 (2) “Baseload renewable power portfolio requirement” means ~~an annual~~  
15 ~~average of 175,000 MWh~~ the actual output of baseload renewable power from  
16 an in-state woody biomass plant that was commissioned prior to September 30,  
17 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1,  
18 2011.

19 (3) “Biomass” means organic nonfossil material of biological origin  
20 constituting a source of renewable energy within the meaning of subdivision  
21 8002(17)(21) of this title.

1 (4) [Repealed.]

2 (b) Notwithstanding subsection 8004(a) and subdivision 8005~~(d)~~(c)(1) of  
3 this title, commencing November 1, 2012, ~~the electricity supplied by each~~  
4 Vermont retail electricity provider ~~to its customers~~ shall ~~include~~ purchase the  
5 provider’s pro rata share of the baseload renewable power portfolio  
6 requirement, which shall be based on the total Vermont retail kWh sales of all  
7 such providers for the previous calendar year. The obligation created by this  
8 subsection shall cease on November 1, ~~2022~~ 2032.

9 (c) A plant used to satisfy the baseload renewable power portfolio  
10 requirement shall be a qualifying small power production facility under  
11 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292.

12 (d) ~~The~~ On or before August 1, 2022, the Commission shall determine, for  
13 the period beginning on November 1, 2022 and ending on November 1, 2032,  
14 the price to be paid to a plant used to satisfy the baseload renewable power  
15 portfolio requirement. The Commission shall not be required to make this  
16 determination as a contested case under 3 V.S.A. chapter 25. The price shall  
17 be the avoided cost of the Vermont composite electric utility system. In this  
18 subsection, the term “avoided cost” means the incremental cost to retail  
19 electricity providers of electric energy or capacity, or both, which, but for the  
20 purchase from the plant proposed to satisfy the baseload renewable power  
21 portfolio requirement, such providers would obtain from a source using the

1 same generation technology as the proposed plant. In this subsection, the term  
2 “avoided cost” also includes the Commission’s consideration of each of the  
3 following:

4 (1) The relevant cost data of the Vermont composite electric utility  
5 system.

6 (2) The terms of the potential contract, including the duration of the  
7 obligation.

8 (3) The availability, during the system’s daily and seasonal peak  
9 periods, of capacity or energy from a proposed plant.

10 (4) The relationship of the availability of energy ~~or~~ capacity, renewable  
11 energy credits and attributes, and other market products and services from the  
12 proposed plant to the ability of the Vermont composite electric utility system  
13 or a portion thereof to avoid costs.

14 (5) The costs or savings resulting from variations in line losses from  
15 those that would have existed in the absence of purchases from the proposed  
16 plant.

17 (6) The supply and cost characteristics of the proposed plant, including  
18 the costs of operation and maintenance of an existing plant during the term of a  
19 proposed contract.

20 (7) Whether the fuel supply for the proposed plant is obtained from  
21 ecologically sound and sustainable sources. In the case of biomass, this shall

1 include an assessment of whether fuel supplies use ecologically sound  
2 harvesting practices and whether they promote a diverse and sustainable forest  
3 economy in the region.

4 (8) The appropriate assignment of risks associated with the pay-for-  
5 performance requirements of the ISO New England Forward Capacity Market.

6 \* \* \*

7 (f) With respect to a plant used to satisfy the baseload renewable power  
8 portfolio requirement:

9 (1) Vermont retail electricity providers shall receive all of the output of  
10 the plant including the electricity, renewable energy credits and attributes, and  
11 other market products and services.

12 (2) The Standard Offer Facilitator shall purchase the baseload renewable  
13 power, and shall allocate the electricity purchased and any associated costs to  
14 the Vermont retail electricity providers based on their pro rata share of total  
15 Vermont retail kWh sales for the previous calendar year, and the Vermont  
16 retail electricity providers shall accept and pay those costs.

17 ~~(2)~~(3) Any tradeable renewable energy credits and attributes that are  
18 attributable to the electricity purchased shall be transferred to the Vermont  
19 retail electricity providers in accordance with their pro rata share of the costs  
20 for such electricity as determined under ~~subdivision~~ subdivisions (1) and (2) of  
21 this subsection, unless the Commission approves the plant owner retaining

1 renewable energy credits and attributes or other market products and services.

2 If the Commission approves the plant owner retaining renewable energy  
3 credits and attributes, or other market products and services, the price and costs  
4 paid by the Vermont retail electricity providers pursuant to subdivision (2) of  
5 this subsection may be reduced by the Commission to reflect the value of those  
6 credits, attributes, products, or services.

7 ~~(3)~~(4) All capacity rights attributable to the plant capacity associated  
8 with the electricity purchased shall be transferred to the Vermont retail  
9 electricity providers in accordance with their pro rata share of the costs for  
10 such electricity as determined under ~~subdivision~~ subdivisions (1) and (2) of  
11 this subsection.

12 ~~(4)~~(5) All reasonable costs of a Vermont retail electricity provider  
13 incurred under this section shall be included in the provider's revenue  
14 requirement for purposes of ratemaking under sections 218, 218d, 225, and  
15 227 of this title. In including such costs, the Commission shall appropriately  
16 account for any credits received under subdivision ~~(2)~~(3) of this subsection.  
17 Costs included in a retail electricity provider's revenue requirement under this  
18 subdivision shall be allocated to the provider's ratepayers as directed by the  
19 Commission.

20 \* \* \*

1 (i) The State and its instrumentalities shall not be liable to a plant owner or  
2 retail electricity provider with respect to any matter related to the baseload  
3 renewable power portfolio requirement or a plant used to satisfy such  
4 requirement, including costs associated with a contract related to such a plant  
5 or any damages arising from the breach of such a contract, the flow of power  
6 between a plant and the electric grid, or the interconnection of a plant to that  
7 grid. For the purpose of this section, the Commission and the Standard Offer  
8 Facilitator constitute instrumentalities of the State.

9 (j) Notwithstanding sections 20 and 21 of this title, the Commission shall  
10 authorize the Vermont Department of Fish and Wildlife to assess the costs of  
11 participating in any proceeding or order under this title relating to biomass  
12 production to the applicant or plant.

13 (k) The owner of a plant used to satisfy the baseload renewable power  
14 portfolio requirement shall investigate the feasibility of utilizing the excess  
15 thermal energy generated by the plant. The owner shall report on its  
16 investigation, including any economically viable options to utilize the excess  
17 thermal energy, to the Department of Public Service on or before October 15,  
18 2022. After receiving the owner's report, the Department shall, in consultation  
19 with the Agency of Commerce and Community Development, examine any  
20 options to utilize the excess thermal energy and the effect of the use or sale of  
21 the excess thermal energy on the rate paid to the plant. On or before

1 January 15, 2023, the Department and Agency shall report on the investigation  
2 and their findings and recommendations, including any recommended  
3 legislation, to the House Committees on Energy and Technology and on  
4 Commerce and Economic Development, and to the Senate Committees on  
5 Finance and on Economic Development, Housing and General Affairs.

6 (l) In considering the assessment of whether fuel supplies use ecologically  
7 sound harvesting practices and whether they promote a diverse and sustainable  
8 forest economy in the region, the Agency of Natural Resources shall provide  
9 input to the Commission regarding any recommended changes to the biomass  
10 harvesting practices associated with fuel supply, and the Commission shall  
11 incorporate such recommendations in its order.

12 (m) For the benefit of Vermont ratepayers, the Commission may consider  
13 the following for inclusion in any contract issued under this subsection:

14 (1) Mechanisms for encouraging the economic dispatch of the plant,  
15 including participation in the ISO New England energy markets, with  
16 consideration given to ISO New England wholesale energy prices, value of  
17 regional renewable energy credits, and the physical operating parameters and  
18 fixed costs of the plant.

19 (2) Any potential opportunities associated with having the proposed  
20 plant withdraw from the ISO New England Forward Capacity Market, while  
21 respecting the economic parameters of the proposed plant.

1       Sec. 2. TRANSITION PROVISION

2           All decisions and orders of the former Public Service Board and the Public  
3           Utility Commission in the matter Investigation into the Establishment of a  
4           Standard-Offer Price for Baseload Renewable Power under the Sustainably  
5           Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782,  
6           shall remain in full force and effect through October 31, 2022.

7       Sec. 3. EFFECTIVE DATE

8           This act shall take effect on passage.

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(Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

FOR THE COMMITTEE