

Thursday, January 20, 2022

PROPOSED AMENDMENT TO S.161

(New language in relation to S.161 as Introduced shown in **bold and red**)

(Developed with input from the Public Service Department, Department of Forests, Parks and Recreation, Green Mountain Power, Vermont Electric Cooperative and Vermont Electric Power Company)

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

§ 8009. Baseload renewable power portfolio requirement

(b) Notwithstanding subsection 8004(a) and subdivision 8005(c)(1) of this title, commencing November 1, 2012, each Vermont retail electricity provider shall purchase the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2024~~ 2032.

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(d) ~~The~~ On or before November 1, 2026 the Commission shall determine, for the period beginning November 1, 2026, and ending November 1, 2032, the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The Commission shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. In this subsection, the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity, or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a source using the same generation technology as the proposed plant. ~~It~~ For the purposes of this subsection, the term "avoided cost" also includes the Commission's consideration of each of the following:

- (1) ~~The~~ the relevant cost data of the Vermont composite electric utility system.
- (2) ~~The~~ the terms of the potential contract, including the duration of the obligation.
- (3) ~~The~~ the availability, during the system's daily and seasonal peak periods, of capacity or energy from a proposed plant.

(4) ~~The~~ the relationship of the availability of energy or, capacity, renewable energy credits and attributes, and other market products and services from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs. **Vermont Retail Electric Providers will receive all output of the baseload renewable plant unless the contract price is reduced to reflect the value of all products, attributes, and services that are retained by the seller.**

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

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

(7) Mechanisms for encouraging dispatch of the proposed plant relative to the ISO New England wholesale energy price and value of regional renewable energy credits, while also respecting the physical operating parameters and fixed costs of the proposed plant.

(8) Whether the fuel supply for the proposed plant is obtained from ecologically sound and sustainable sources. In the case of biomass, this shall include an assessment of whether fuel supplies use ecologically sound harvesting practices and whether they promote a diverse and sustainable forest economy in the region.

(9) The appropriate assignment of risks associated with the ISO New England Forward Capacity Market Pay for Performance program.

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

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

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(2) Any tradeable renewable energy credits and attributes that are attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers

in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection, unless the Commission approves the plant owner retaining renewable energy credits and attributes or other market products and services. If the Commission approves the plant owner retaining renewable energy credits and attributes, or other market products and services, the price and costs paid by the Vermont retail electricity providers pursuant to subdivision (2) of this subsection may be reduced by the Commission to reflect the value of those credits, attributes, products, or services.

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(j) The Commission shall authorize any Agency participating in a proceeding under this section or order issued under this section to assess its costs against a proposed plant consistent with section 21 of this title.

Sec. 2. AMENDMENT TO TRANSITION PROVISION

Section 2 of Act 39 (2021) is amended to read as follows:

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782, shall remain in full force and effect through October 31, ~~2024~~ 2032. For years 2023, ~~and 2024,~~ and 2025 ~~and the period January 1, 2026 to November 1, 2026,~~ the purchase price shall be the levelized value determined in Docket No. 7782.

Sec. 3. AUTOMATIC TERMINATION OF MUST TAKE OBLIGATION

(a) On or before July 1, 2023, the owner of a plant used to satisfy the baseload renewable power portfolio requirement provided for in 30 V.S.A. 16 § 8009 shall submit to the Public Utility Commission and the Department of Public Service:

(1) a signed contract providing for the construction of a facility at the plant that will utilize the excess thermal heat generated at the plant ~~for an economic, environmental, or socially beneficial purpose for a beneficial purpose~~; and

(2) a certification by a professional engineer that the construction of the facility will result in ~~at least 40 percent of the heat value of the biomass utilized by the plant being used for a beneficial purpose~~ an increase in the overall efficiency of the plant by at least fifty percent.

(b) On or before October 1, 2024 the owner of a plant used to satisfy the baseload renewable power portfolio requirement provided for in 30 V.S.A. § 8009 shall submit to the Public Utility Commission and the Department of Public Service a certification that the engineering designs of the main components of a facility to be constructed at the plant that will cause the plant's overall efficiency to be increased by at least fifty percent have been completed.

~~(b)(c) If a the contract and certification required under subsection (a) of this section is not submitted to the Commission and Department on or before July 1, 2023, or if by November 1, 2025 the Public Utilities Commission finds that less than 40 percent of the heat value of biomass is not being used for a beneficial purpose if the certification required under subsection (b) of this section is not submitted to the Commission and Department on or before October 1, 2024, then the obligation under 30 V.S.A. § 8009 for each Vermont retail electricity provider to purchase a pro rata share of the baseload renewable power portfolio requirement with respect to the plant shall cease on November 1, 2025, 2024 and the Public Utility Commission is not required to conduct the rate determination provided for in 30 V.S.A. § 8009(d). This efficiency determination shall be based on information provided by the owner of each plant and the Department of Public Service.~~

(d) If by November 1, 2025 the Commission finds that the overall efficiency of a plant used to satisfy the baseload renewable power portfolio requirement provided for in 30 V.S.A. § 8009 has not increased by at least fifty percent then the obligation under 30 V.S.A. § 8009 for each Vermont retail electricity provider to purchase a pro rata share of the baseload renewable power portfolio requirement with respect to the plant shall cease on November 1, 2025 and the Public Utility Commission is not required to conduct the rate determination provided for in 30 V.S.A. § 8009(d). This efficiency determination shall be based on information provided by the owner of each plant after opportunity for comment concerning the information provided by a plant's owner.

(e) After November 1, 2026, the owner of the plant shall report annually to the Commission on the overall efficiency of the plant. If the overall efficiency of the plant falls below the rate reported in subsection (d) the report shall include a plan to return the plant to the rate reported in subsection (d).

(f) If the owner of a plant does not comply with a plan required under subsection (e) the Commission shall open a docket and investigate whether the obligation under 30 V.S.A. § 8009 for

each Vermont retail electricity provider to purchase a pro rata share of the baseload renewable power portfolio requirement should be terminated.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.