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H.631

Introduced by Representatives Stebbins of Burlington, Campbell of St.

Johnsbury, Patt of Worcester, and Torre of Moretown

Referred to Committee on

Date:

Subject: Utilities; energy consumption; data access; energy storage

Statement of purpose of bill as introduced: This bill proposes to establish a structure for accessing energy consumption data from Vermont utilities and for establishing an energy storage program.

An act relating to access to utility energy consumption data and establishment of an energy storage program

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

Sec. 1. 30 V.S.A. § 256 is added to read:

§ 256. ENERGY CONSUMPTION; DATA ACCESS

(a) Findings. The General Assembly finds:

(1) Optimizing energy use through whole-building utility data access is in the public interest because it provides consumers, building owners, utilities, and states with significant economic benefits.

1 (2) Implementing building energy use data access legislation catalyzes
2 the development of a strong market for building energy services that will
3 positively impact Vermont’s economy through significant job growth.

4 (3) Improving the energy use efficiency of the existing building stock is
5 a key strategy to help preserve the affordability of rental housing.

6 (4) Energy use reductions stemming from data access can result in direct
7 cost savings to customers and also in peak load reductions that benefit all
8 ratepayers.

9 (5) Data access programs allow utilities to maximize the value of their
10 energy use efficiency portfolio by engaging customers and directing them to
11 energy efficiency programs and by enabling utilities to target low-performing
12 buildings.

13 (6) Implementing building data access enables building owners in
14 Vermont to qualify for certain federal and other incentives to help them
15 improve their assets.

16 (7) Energy use data access is the foundation of a successful efficiency
17 strategy and enables building owners to track energy use performance over
18 time, set performance goals, and justify cost-effective energy use upgrades.

19 (8) Absent whole-building energy data access legislation, building
20 owners lack an efficient, defined process to obtain energy performance of their
21 buildings in a manner that protects customer confidentiality.

1 (b) Definitions. As used in this section:

2 (1) “Account holder” or “customer” means the person authorized to
3 access or modify utility account details.

4 (2) “Aggregated usage data” means an aggregation of covered usage
5 data, where all data associated with a qualified building or qualified property,
6 including data from both tenant meters and owner meters, are combined into
7 one collective data point per utility data type, per time period, and where any
8 unique identifiers or other personal information are removed or dissociated
9 from individual meter data. The utility shall provide all necessary data points
10 for qualified data recipients to comply with reporting requirements to which
11 they are subject, including any such data the utility possesses.

12 (3) “Aggregation threshold” means three or more unique nonresidential
13 qualified accounts or five or more unique qualified accounts of a property or
14 building during the period for which data is requested.

15 (4) “Benchmarking tool” means the ENERGY STAR Portfolio Manager
16 web-based tool, or any prudent and cost-effective alternative tool approved by
17 the Commission that:

18 (A) enables the periodic entry of a building’s energy usage data and
19 other descriptive information about a building; and

20 (B) rates a building’s energy efficiency against that of comparable
21 buildings nationwide.

1 (5) “Covered usage data” means electric, gas, district energy, water, and
2 delivered-fuel data collected from one or more utility meters that reflects the
3 quantity and time period of utility usage with respect to a building or property,
4 or portion thereof.

5 (6) “Data recipient” means:

6 (A) an owner of the property or building;

7 (B) an owner of a portion of a property with regard to covered usage
8 data only for the utility consumption it or its tenants, if any, pay for and
9 consume in the owned portion;

10 (C) a tenant with regard to covered usage data only for the utility
11 consumption it or its subtenants, if any, pay for and consume in the space
12 leased by the tenant;

13 (D) the board in the case of a condominium or cooperative ownership
14 of the property or building; or

15 (E) an agent authorized to receive the covered usage data by any of
16 the above.

17 (7) “District energy” means steam, hot water, chilled water, and other
18 heat or heat rejection services, or both, delivered through fixed pipes to
19 multiple properties.

20 (8) “Property” means:

21 (A) a single tax parcel;

1 (B) two or more tax parcels held in the cooperative or condominium
2 form of ownership and governed by a single board of managers; or

3 (C) two or more co-located tax parcels owned or controlled by the
4 same entity.

5 (9) “Qualified account” means a utility account that serves some or all
6 of a building or property for which covered usage data is requested and that, as
7 affirmed by the data recipient, was not controlled by the data recipient or its
8 subsidiary during the time period for which covered usage data is requested.

9 (10) “Qualified building” means a building that meets the aggregation
10 threshold.

11 (11) “Qualified data recipient” means data recipient with respect to a
12 qualified property or qualified building.

13 (12) “Qualified property” means a property that meets the aggregation
14 threshold.

15 (13) “Qualified utility” means a large, medium, or small qualified
16 utility, further defined as follows:

17 (A) “Large qualified utility” means a utility that has:

18 (i) 100,000 or more active accounts, customers, or commercial or
19 industrial service connections in the State; or

1 (ii) more than 50 active accounts, customers, or commercial or
2 industrial service customers in the State and has over \$500,000,000.00 in
3 annual revenue from within the State.

4 (B) “Medium qualified utility” means a utility that does not qualify
5 as a large qualified utility and that has:

6 (i) 10,000 or more active accounts, customers, or commercial or
7 industrial service connections in the State; or

8 (ii) more than 50 active accounts, customers, or commercial or
9 industrial service customers in the State and has \$40,000,000.00–
10 \$500,000,000.00 in annual revenue from within the State.

11 (C) “Small qualified utility” means a utility that does not qualify as a
12 large or medium qualified utility and that has:

13 (i) more than 1,000 active accounts, customers, or commercial or
14 industrial service connections in the State; or

15 (ii) more than 20 active accounts, customers, or commercial or
16 industrial service customers in the State and has \$10,000,000.00 or more in
17 annual revenue from within the State.

18 (14) “Utility” means a person that distributes and sells electricity;
19 natural gas; delivered fuel, such as fuel oil, propane, kerosene, and coal; or
20 district energy for use in buildings.

1 (15) “Utility data type” means one of the following four types: electric,
2 gas, district energy, or delivered fuel.

3 (c) Data access procedures. On or before October 1, 2024, the Commission
4 shall open a proceeding and establish by rule or order procedures to implement
5 the requirements of this section. The Commission shall consider industry best
6 practices in developing the rule or order. The procedures shall require that:

7 (1) A utility shall retain all consumption data for a period of not less
8 than two years.

9 (2) A qualified utility shall retain monthly consumption data used for
10 billing for a period of not less than 15 years.

11 (3) A utility shall honor an account holder’s request to transmit the
12 account holder’s covered usage data held by the utility to any entity designated
13 by the account holder.

14 (4) A qualified data recipient with respect to a qualified building or a
15 qualified property may request that a qualified utility provide aggregated usage
16 data for the qualified building or the qualified property. Aggregated usage data
17 shall include identifiers of all meters associated with the aggregate data and
18 any other information needed for data quality assurance.

19 (5) A utility shall deliver data requested under this subsection according
20 to schedules set by the Commission.

1 (6) The account holder request process and the utility delivery of
2 requested data shall be convenient and secure.

3 (d) Stakeholder process. Within 100 days after opening the proceeding
4 required by subsection (c) of this section, the Commission shall initiate or
5 participate in a stakeholder process to inform its fulfillment of the requirements
6 of this section. The stakeholder process shall:

7 (1) Be completed in not more than 18 months.

8 (2) Include stakeholder workshops organized and facilitated in a way
9 that encourages representation from diverse stakeholders and ensures equitable
10 opportunities for participation. Stakeholders shall not need formal intervention
11 or legal representation to participate in the workshops. As used in this
12 subsection, “stakeholders” include companies, data recipients, tenants,
13 environmental groups, consumer advocates, tenant advocates, housing
14 advocates, local communities, and other interested members of the public.

15 (3) Include opportunities for dialogue and written comments.

16 (4) Solicit stakeholder comment on a preliminary draft proposal
17 prepared by the Commission or by other stakeholders, as appropriate.

18 (e) Public data. Notwithstanding any provision of law to the contrary,
19 aggregated usage data shall not be deemed customer utility usage information,
20 personally identifiable information, critical energy infrastructure information,
21 or confidential information and shall not be subject to protections as such.

1 (f) Nonqualified utility data access. Any covered usage data that a utility
2 provides to a data recipient under this section shall be:

3 (1) Available to be requested online and in printable paper form. A
4 nonqualified utility may provide only paper request forms upon a showing of
5 hardship. A utility's validation of the requestor's identity shall be consistent
6 with, and not more onerous than, the utility's then-current practices.

7 (2) Provided to the data recipient in a time frame, frequency, format, and
8 delivery method prescribed by the Commission.

9 (g) Qualified utility data access. Any covered usage data that a qualified
10 utility provides to a data recipient under this section shall:

11 (1) be provided to the data recipient within:

12 (A) 90 days after receiving the data recipient's valid written or
13 electronic request if the request is received on or before July 1, 2025; or

14 (B) 30 days after receiving the data recipient's valid written or
15 electronic request if the request is received after July 1, 2025;

16 (2) subject to subsection (k) of this section, include at least the most
17 recent 48 consecutive months of covered usage data prior to the initial date the
18 data was requested, regardless of whether the data recipient had a business
19 relationship with the building or property during that time period;

1 (3) include all necessary data points for data recipients to comply with
2 reporting requirements to which they are subject, including any such data that
3 the utility possesses;

4 (4) be directly uploaded to the data recipient's benchmarking tool
5 account, delivered in a spreadsheet in a standard format consistent with the
6 benchmarking tool, or delivered in another format approved by the
7 Commission, depending on utility size, and within a time frame prescribed by
8 the Commission that reflects utility size and capability;

9 (5) be provided to the data recipient according to a schedule set by the
10 Commission, but not less than monthly;

11 (6) be provided until the data recipient revokes the request for usage
12 data or is no longer a data recipient or is no longer a qualified data recipient
13 with respect to aggregated usage data;

14 (7) be accompanied by a list of all meters associated with the coverage
15 usage data, including aggregated usage data, and shall be accompanied by any
16 other information the Commission deems necessary, including for data quality
17 assurance; and

18 (8) be provided at no cost to the data recipient.

19 (h) Data validity and usefulness. To ensure the validity and usefulness of
20 covered usage data, a utility shall provide the best available consumption and
21 other information, consistent with the utility's records as presented to the

1 account holder on the utility's customer portal and on the account holder's
2 bills.

3 (i) Data revisions and notifications. The Commission shall establish by
4 rule or order procedures for data recipients to request and receive timely
5 revisions correcting erroneous covered usage data. Once covered usage data
6 has been entered into the benchmarking tool, it shall not be deleted or altered
7 by utility systems, except as is necessary to correct errors or reflect re-bills.
8 Whenever previously provided covered usage data is changed to correct errors,
9 notification shall be provided to the data recipient.

10 (j) Customer authorization. On or before October 1, 2024, the Commission
11 shall adopt a standard form for customers to authorize the sharing of their
12 covered usage data. For properties that do not meet the aggregation threshold
13 and therefore require customer authorization, the utility shall provide covered
14 usage data to data recipients upon customer authorization, which:

15 (1) may be provided in a form approved by the Commission;

16 (2) may be provided in a lease agreement provision; and

17 (3) remains valid until the customer revokes it, regardless of how the
18 authorization is provided.

19 (k) Access to and sharing of data. Access to covered usage data under this
20 section shall be subject to any rules adopted by the Commission pursuant to
21 this section. In addition:

1 (1) A utility shall provide to a data recipient unaggregated data
2 regarding usage by an account holder that has vacated the property unless the
3 account holder has explicitly notified the utility that the account holder forbids
4 the sharing of such data.

5 (2) A qualified account holder shall not be entitled to forbid the sharing
6 of aggregated usage data with a qualified data recipient except upon a showing
7 that aggregation of data would present a proximate and foreseeable threat to
8 national security and where each such showing is deemed credible by the
9 Commission.

10 (3) A utility shall be held harmless for third-party misuse of data shared
11 pursuant to this section and no cause of action shall be initiated against the
12 utility for such subsequent misuse, unless the utility has not followed
13 procedures established by this section or the utility is grossly negligent.

14 (l) Cost recovery. Prior to filing for cost recovery, a qualified utility shall
15 first demonstrate good faith efforts to secure federal, State, or other relevant
16 funding options. Thereafter, a qualified utility may file for cost recovery of the
17 reasonably and prudently incurred costs of providing covered usage data,
18 which may include establishing, operating, and maintaining data aggregation
19 and data access services, if deemed appropriate by the Commission.

20 (m) Experts. The Commission is authorized to retain one or more technical
21 experts to assist with implementation of this section.

1 Sec. 2. APPROPRIATION

2 In fiscal year 2025, the amount of \$100,000.00 is appropriated from the
3 General Fund to the Commission to support its responsibilities under this act.

4 Sec. 3. VERMONT STORAGE PERFORMANCE CREDIT

5 (a) On or before December 31, 2024, the Department of Public Service
6 shall create the Energy Storage Performance Credit program to support the
7 State's renewable energy and climate goals and to provide ratepayers with
8 affordable energy storage solutions that will mitigate peak demand, provide
9 grid reliability, and better integrate renewable energy resources.

10 (b) The Department, in consultation with electric distribution utilities;
11 environmental groups; the Vermont Electric Power Company, Inc.; and other
12 stakeholders, shall develop the Energy Storage Performance Credit program
13 with the following parameters:

14 (1) Create a credit mechanism program that incentivizes the
15 development of energy storage assets across the State.

16 (2) Using a gap analysis, the Department, in consultation with outside
17 resources, shall identify strategies for energy storage to optimize all
18 opportunities, including forward capacity markets, ancillary service markets,
19 peak shaving, and renewable integration.

1 (3) In consultation with stakeholders, the Department shall develop a
2 metric to define ratepayer impact and ensure that the program provides positive
3 net present value to ratepayers.

4 (4) The Department may create additional credits to encourage storage
5 in strategic regions and for specific use cases that align with State priorities.

6 Sec. 4. EFFECTIVE DATE

7 This act shall take effect on passage.