

1 S.305

2 Introduced by Committee on Natural Resources and Energy

3 Date: January 31, 2024

4 Subject: Public service; utilities; Public Utility Commission

5 Statement of purpose of bill as introduced: This bill proposes to make
6 multiple changes to statutes related to the Public Utility Commission,
7 including notice requirements and energy storage facilities.

8 An act relating to miscellaneous changes related to the Public Utility
9 Commission

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

11 Sec. 1. 3 V.S.A. § 165(b) is amended to read:

12 (b) Public contract advocates shall be appointed or retained for such time
13 as may be required to monitor, represent the public interest, and report on any
14 contract for basic telecommunications service under 30 V.S.A. § 226a.

15 Compensation, expenses, and support of public contract advocates shall be
16 assessed as costs to the Department of Public Service and paid from the
17 revenues received from the tax to finance the Department and the ~~Board~~ Public
18 Utility Commission levied under 30 V.S.A. § 22.

1 Sec. 2. 30 V.S.A. § 8(d) is amended to read:

2 (d) ~~At least 12 days prior to~~ Written notice of a hearing before the
3 ~~Commission a Commissioner or a hearing officer, the Commission shall give~~
4 ~~written notice of the time and place of the hearing to all parties to the case and~~
5 ~~shall indicate the name and title of the person designated to conduct the~~
6 ~~hearing shall be given in accordance with 30 V.S.A. § 10.~~

7 Sec. 3. 30 V.S.A. § 10(c) is amended to read:

8 (c) ~~A scheduling or procedural conference~~ As used in this section, the term
9 “hearings” refers to public hearings and evidentiary hearings. All other
10 proceedings before the Commission may be held upon any reasonable notice.

11 Sec. 4. 30 V.S.A. § 102(a) is amended to read:

12 (a) Before the articles of incorporation are transmitted to the Secretary of
13 State, the incorporators shall petition the Public Utility Commission to
14 determine whether the establishment and maintenance of the corporation will
15 promote the general good of the State and shall at that time file a copy of any
16 petition with the Department. The Department, within 12 days, shall review
17 the petition and file a recommendation regarding the petition in the same
18 manner as is set forth in subsection 225(b) of this title. The recommendation
19 shall set forth reasons why the petition shall be accepted without hearing or
20 shall request that a hearing on the petition be scheduled. If the Department
21 requests a hearing on the petition, or, if the Commission deems a hearing

1 necessary, it shall appoint a time and place either remotely accessible or in the
2 county where the proposed corporation is to have its principal office for
3 hearing the petition. ~~At least 12 days before this hearing, notice~~ Notice of the
4 hearing ~~shall be given in accordance with section 10 of this title and~~ shall be
5 published on the Commission's website and once in a newspaper of general
6 circulation in the county in which the proposed corporation is to have its
7 principal office. The website notice shall be maintained through the date of
8 the hearing. The newspaper notice shall include an ~~Internet~~ internet address
9 where more information regarding the petition may be viewed. The
10 Department of Public Service, through the Director for Public Advocacy, shall
11 represent the public at the hearing.

12 Sec. 5. 30 V.S.A. § 231(a) is amended to read:

13 (a) A person, partnership, unincorporated association, or previously
14 incorporated association that desires to own or operate a business over which
15 the Public Utility Commission has jurisdiction under the provisions of this
16 chapter shall first petition the Commission to determine whether the operation
17 of such business will promote the general good of the State, and shall at that
18 time file a copy of any such petition with the Department. The Department,
19 within 12 days, shall review the petition and file a recommendation regarding
20 the petition in the same manner as is set forth in subsection 225(b) of this title.
21 Such recommendation shall set forth reasons why the petition shall be accepted

1 without hearing or shall request that a hearing on the petition be scheduled. If
2 the Department requests a hearing on the petition, or, if the Commission deems
3 a hearing necessary, it shall appoint a time and place in the county where the
4 proposed corporation is to have its principal office for hearing the petition. At
5 ~~least 12 days before this hearing, notice~~ Notice of the hearing shall be given in
6 accordance with section 10 of this title and shall be published on the
7 Commission's website and once in a newspaper of general circulation in the
8 county in which the hearing will occur. The website notice shall be
9 maintained through the date of the hearing. The newspaper notice shall
10 include an ~~Internet~~ internet address where more information regarding the
11 petition may be viewed. The Director for Public Advocacy shall represent the
12 public at the hearing. If the Commission finds that the operation of such
13 business will promote the general good of the State, it shall give such person,
14 partnership, unincorporated association, or previously incorporated association
15 a certificate of public good specifying the business and territory to be served
16 by such petitioners. For good cause, after opportunity for hearing, the
17 Commission may amend or revoke any certificate awarded under the
18 provisions of this section. If any such certificate is revoked, the person,
19 partnership, unincorporated association, or previously incorporated association
20 shall no longer have authority to conduct any business ~~which~~ that is subject to

1 the jurisdiction of the Commission whether or not regulation thereunder has
2 been reduced or suspended, under section 226a or 227a of this title.

3 Sec. 6. 30 V.S.A. § 248(u) is amended to read:

4 (u) ~~For an energy storage facility, a~~ A certificate under this section shall
5 only be required for ~~a stationary facility exporting to the grid~~ an energy storage
6 facility that has a capacity of 100 kW or greater, unless the Commission
7 establishes a larger threshold by rule. The Commission shall establish a
8 simplified application process for energy storage facilities subject to this
9 section with a capacity of up to 1 MW, unless it establishes a larger threshold
10 by rule. For facilities eligible for this simplified application process, a
11 certificate of public good will be issued by the Commission by the ~~forty-sixth~~
12 46th day following filing of a complete application, unless a substantive
13 objection is timely filed with the Commission or the Commission itself raises
14 an issue. The Commission may require facilities eligible for the simplified
15 application process to include a letter from the interconnecting utility
16 indicating the absence or resolution of interconnection issues as part of the
17 application.

18 ~~Sec. 7. EFFECTIVE DATE~~

19 ~~This act shall take effect on July 1, 2024.~~

** * * Energy Efficiency Modernization Act * * **

Sec. 7. 2020 Acts and Resolves No. 151, Sec. 1, as amended by 2023 Acts and Resolves No. 44, Sec. 1, is further amended to read:

*Sec. 1. ALLOWANCE OF THE USE OF ENERGY EFFICIENCY
CHARGE FUNDS FOR GREENHOUSE GAS EMISSIONS
REDUCTION PROGRAMS*

(a) The electric resource acquisition budget for an entity appointed to provide electric energy efficiency and conservation programs and measures pursuant to 30 V.S.A. § 209(d)(2)(A) for the calendar years 2021–2026 shall be determined pursuant to 30 V.S.A. § 209(d)(3)(B). This section shall apply only if the entity’s total electric resource acquisition budget for 2024–2026 does not exceed the entity’s total electric resource acquisition budget for 2021–2023, adjusted for cumulative inflation between January 1, 2021, and July 1, 2023, using the national consumer price index. An entity may include proposals for activities allowed under this pilot in its 2027–2029 demand resource plan filing, but these activities shall only be implemented if this section is extended to cover that ~~timeframe~~ time frame.

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, ~~the PUC shall authorize an entity pursuant to subsection (a) of this section to~~ appointed under 30 V.S.A. § 209(d)(2)(A) may spend a portion of its electric resource acquisition budget, in an amount ~~to be determined by the PUC but not to exceed \$2,000,000.00 per year; on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. Programs measures, and services authorized pursuant to subsection (a) of this section shall~~ An entity spending a portion of its electric resource acquisition budget as outlined in this section shall submit notice of the amount of the annual electric resource acquisition budget to be spent pursuant to this subsection to the PUC, the Department of Public Service, the electric distribution utilities, and the Vermont Public Power Supply Authority with a sworn statement attesting that the programs, measures, or services comply with the following criteria:

(1) Reduce greenhouse gas emissions in the thermal energy or transportation sectors, or both.

(2) Have a nexus with electricity usage.

(3) Be additive and complementary to and shall not replace or be in competition with electric utility energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and existing thermal efficiency programs operated by an entity appointed under 30 V.S.A. § 209(d)(2)(A) such that they result in the

largest possible greenhouse gas emissions reductions in a cost-effective manner.

(4) Be proposed after the entity consults with any relevant State agency or department and shall not be duplicative or in competition with programs delivered by that agency or department.

(5) Be delivered on a statewide basis. However, this shall not preclude the delivery of services specific to a retail electricity provider. Should such services be offered, all distribution utilities and Vermont Public Power Supply Authority shall be provided the opportunity to participate, and those services shall be designed and coordinated in partnership with each of them. For programs and services that are not offered on a statewide basis, the proportion of utility-specific program funds used for services to any distribution utility shall be ~~no~~ not less than the proportionate share of the energy efficiency charge, which in the case of Vermont Public Power Supply Authority, is the amount collected across their combined member utility territories during the period this section remains in effect.

(c) An entity that ~~is approved to provide~~ provides a program, measure, or service pursuant to this section shall provide the program, measure, or service in cooperation with a retail electricity provider.

(4) The entity shall not claim any savings and reductions in fossil fuel consumption and in greenhouse gas emissions by the customers of the retail electricity provider resulting from the program, measure, or service if the provider elects to offer the program, measure, or service pursuant to 30 V.S.A. § 8005(a)(3) unless the entity and provider agree upon how savings and reductions should be accounted for, apportioned, and claimed.

(2) ~~The PUC shall develop standards and methods to appropriately measure the effectiveness of the programs, measures, and services in relation to the entity's Demand Resources Plan proceeding.~~

(d) Any funds spent on programs, measures, and services pursuant to this section shall not be counted towards the calculation of funds used by a retail electricity provider for energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and the calculation of project costs pursuant to 30 V.S.A. § 8005(a)(3)(C)(iv).

(e) ~~On or before April 30, 2021 and every April 30 for six years thereafter, the PUC shall submit a written report to the House Committee on Environment and Energy and the Senate Committees on Natural Resources and Energy and on Finance concerning any programs, measures, and services approved pursuant to this section.~~

(f) Thermal energy and process fuel efficiency funding. Notwithstanding 30 V.S.A. § 209(e), a retail electricity provider that is also an entity appointed under 30 V.S.A. § 209(d)(2)(A), may during the years of 2024–2026, use monies subject to 30 V.S.A. § 209(e) to deliver thermal and transportation measures or programs that reduce fossil fuel use regardless of the preexisting fuel source of the customer, including measures or programs permissible under this pilot program, with special emphasis on measures or programs that take a new or innovative approach to reducing fossil fuel use, including modifying or supplementing existing vehicle incentive programs and electric vehicle supply equipment grant programs to incentivize high-consumption fuel users, especially individuals using more than 1000 gallons of gasoline or diesel annually and those with low and moderate income, to transition to the use of battery electric vehicles.

** * * Clean Heat Standard * * **

Sec. 8. 30 V.S.A. § 8124 is amended to read:

§ 8124. CLEAN HEAT STANDARD COMPLIANCE

** * **

(b) Annual registration.

** * **

(4) The Commission shall maintain, and update annually, a list of registered entities on its website ~~that contains the required registration information.~~

** * **

Sec. 9. 30 V.S.A. § 8125 is amended to read:

§ 8125. DEFAULT DELIVERY AGENT

** * **

(b) Appointment. The default delivery agent shall be one or more statewide entities capable of providing a variety of clean heat measures. ~~The Commission shall designate the first default delivery agent on or before June 1, 2024.~~ The designation of an entity under this subsection may be by order of appointment or contract. A designation, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An existing order of appointment issued by the Commission under section 209 of this title may be amended to include the responsibilities of the default delivery agent. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the

Commission deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Commission may amend or revoke an order of appointment.

* * *

(d) Use of default delivery agent.

* * *

(3) The Commission shall by rule or order establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its form. The default delivery agent's schedule of costs shall include sufficient costs to deliver installed measures and shall specify separately the costs to deliver measures to customers with low income and customers with moderate income as required by subsection 8124(d) of this title. The Commission shall provide not less than ~~120~~ 90 days' notice of default delivery agent credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.

* * *

(e) Budget.

* * *

(B) the development of a three-year plan and associated proposed budget by the default delivery agent to be informed by the final results of the Department's potential study. The default delivery agent may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures. The Commission shall approve the first three-year plan and associated budget by no later than September 1, 2025; and

* * *

Sec. 10. 30 V.S.A. § 8126 is amended to read:

§ 8126. RULEMAKING

(a) The Commission shall adopt rules and may issue orders to implement and enforce the Clean Heat Standard program.

* * *

(c) The Commission's rules may include a provision that allows the Commission to revise its Clean Heat Standard rules by order of the

Commission without the revisions being subject to the rulemaking requirements of the 3 V.S.A. chapter 25, provided the Commission:

- (1) provides notice of any proposed changes;*
- (2) allows for a 30-day comment period;*
- (3) responds to all comments received on the proposed change;*
- (4) provides a notice of language assistance services on all public outreach materials; and*
- (5) arranges for language assistance to be provided to members of the public as requested using professional language services companies.*

(d) Any order issued under ~~this chapter~~ subsection (c) of this section shall be subject to appeal to the Vermont Supreme Court under section 12 of this title, and the Commission must immediately file any orders, a redline, and clean version of the revised rules with the Secretary of State, with notice simultaneously provided to the House Committee on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy.

Sec. 11. 2023 Acts and Resolves No. 18, Sec. 6 is amended to read:

Sec. 6. PUBLIC UTILITY COMMISSION IMPLEMENTATION

** * **

(f) Final rules.

** * **

(5) The final proposed rules shall contain the first set of annual required amounts for obligated parties as described in 30 V.S.A. § 8124(a)~~(1)~~(2). The first set of annual required amounts shall only be adopted through the rulemaking process established in this section, not through an order.

** * **

Sec. 12. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

** * **

(d) The Commissioner shall disclose a return or return information:

** * **

(7) to the Joint Fiscal Office pursuant to subsection 10503(e) of this title and subject to the conditions and limitations specified in that subsection; and

(8) to the Attorney General; the Data Clearinghouse established in the October 2017 Non-Participating Manufacturer Adjustment Settlement Agreement, which the State of Vermont joined in 2018; the National Association of Attorneys General; and counsel for the parties to the Agreement as required by the Agreement and to the extent necessary to comply with the Agreement and only as long as the State is a party to the Agreement; and

(9) to the Public Utility Commission and the Department of Public Service, provided the disclosure relates to the sale of heating fuel into or in the State for compliance with the Clean Heat Standard established in 30 V.S.A. chapter 94.

** * **

** * * Effective Date * * **

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.