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S.305

* * * Baseload Power * * *

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

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT

* * *

(d) On or before November 1, ~~2026~~ 2027, the Commission shall determine, for the period beginning on November 1, ~~2026~~ 2027 and ending on 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. As used 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. For the purposes of this subsection, the term “avoided cost” also includes the Commission’s consideration of each of the following:

* * *

(k) Collocation and efficiency requirements.

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(3) On or before October 1, ~~2024~~ 2025, the owner of the plant shall submit to the Commission and the Department a certification that the main components of the facility used to meet the requirement of subdivision (1) of this subsection ~~(k)~~ have been completed at the plant.

(4) If the contract and certification required under subdivision (2) of this subsection are not submitted to the Commission and Department on or before July 1, 2023 or if the certification required under subdivision (3) is not submitted to the Commission and Department on or before October 1, ~~2024~~ 2025, then the obligation under this section for each Vermont retail electricity provider to purchase a pro rata share of the baseload renewable power portfolio requirement shall cease on November 1, ~~2024~~ 2025, and the Commission is not required to conduct the rate determination provided for in subsection (d) of this section.

(5) On or before September 1, ~~2025~~ 2026, the Department shall investigate and submit a recommendation to the Commission on whether the plant has achieved the requirement of subdivision (1) of this subsection. If the Department recommends that the plant has not achieved the requirement of subdivision (1) of this subsection, the obligation under this section shall cease on November 1, ~~2025~~ 2026, and the Commission is not required to conduct the rate determination provided for in subsection (d) of this section.

1 (6) After November 1, ~~2026~~ 2027, the owner of the plant shall report
2 annually to the Department and the Department shall verify the overall
3 efficiency of the plant for the prior 12-month period. If the overall efficiency
4 of the plant falls below the requirement of subdivision (1) of this subsection,
5 the report shall include a plan to return the plant to the required efficiency
6 within one year.

7 (7) If, after implementing the plan in subdivision (6) of this subsection,
8 the owner of the plant does not achieve the efficiency required in subdivision
9 (1) of this subsection, the Department shall request that the Commission
10 commence a proceeding to terminate the obligation under this section.

11 (8) The Department may retain research, scientific, or engineering
12 services to assist it in making the recommendation required under subdivision
13 (5) of this subsection and in reviewing the information required under
14 subdivision (6) of this subsection and may allocate the expense incurred or
15 authorized by it to the plant's owner.

16 (9) If the plant is sold to a new owner and wholly different legal entity,
17 with new directors and officers, and a new plant operator, before October 1,
18 2025, the dates for completion and certification of the project, investigations
19 and recommendations by the Department, and the Commission to determine
20 the new price to be paid to the plant shall be extended by two years. To
21 qualify for this extension, the new entity shall be a new and different company,

1 owned and controlled by none of the same owners, officers, directors, or
2 leadership that had any investment or interest, directly or indirectly, in the
3 entity that owned the company and operated the plant on April 1, 2024.

4 (A) In order for a new entity to qualify for the extension, the entity
5 shall provide documentation to the Department necessary to verify and
6 approve that it is a new entity prior to the extension under this subdivision (9).

7 (B) If it is determined that the new entity is financially or
8 administratively affiliated with the previous owner, before or after the
9 extension, the extension of the terms and conditions are null and void.

10 Sec. XX. BIOMASS SUPPLIERS AND CONSTRUCTION

11 (a) The owner of the plant used to satisfy the baseload renewable power
12 portfolio requirement under 30 V.S.A. § 8009 shall offer to enter into written
13 contracts with each of its biomass suppliers establishing customary commercial
14 terms, including payment timelines, supply volume, and term length.

15 (b) For biomass suppliers that are not a party to a supply contract with the
16 plant owner as of April 1, 2024, the plant owner shall offer to provide supply
17 contracts to ensure payment to such suppliers for biomass deliveries within
18 seven business days of the invoice date.

19 (c) The plant owner shall ensure that the payments made to each biomass
20 supplier are timely, accurate, and valid. In the event any payment is not timely

1 made under the terms of a supplier contract, the plant owner shall pay a late
2 payment penalty to the supplier equal to five percent per week.

3 (d) The plant owner shall hire an independent auditor that holds a certified
4 public accountants' license in Vermont and an Internal Auditor Certification to
5 review the timeliness of the plant owner's payments to its suppliers and to
6 prepare a quarterly report detailing its findings. The independent auditor shall
7 have the authority to make unlimited, unscheduled inspections of the project
8 worksite.

9 (e) The auditor's quarterly report shall be sworn under the penalty of
10 perjury and provided to the General Assembly and the Department of Public
11 Service. It shall also include:

12 (1) a status report on the design and construction of the facility proposed
13 to meet the requirements of 30 V.S.A. § 8009(k); and

14 (2) an assessment of the efficiency project's progress and an analysis as
15 to whether the project will be completed by October 1, 2025.

16 (f) The independent auditor shall refer any late payments to the Office of
17 the Attorney General for potential consumer protection law violations.

18 (g) This section shall apply until the Commission establishes the new
19 avoided cost paid to the plant in accordance with 30 V.S.A. § 8009(d), after
20 which point the obligations under this section shall cease.