

1 S.112

2 Introduced by Senator Bray

3 Referred to Committee on

4 Date:

5 Subject: Public service; Public Utility Commission; authority; rulemaking;
6 energy storage facilities

7 Statement of purpose of bill as introduced: This bill proposes to make multiple
8 changes related to the Public Utility Commission.

9 An act relating to miscellaneous subjects related to the Public Utility
10 Commission

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

12 * * * Section 248 * * *

13 Sec. 1. 30 V.S.A. § 248 is amended to read:

14 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
15 FACILITIES; CERTIFICATE OF PUBLIC GOOD

16 (a)(1) No company, as defined in section 201 of this title, may:

17 * * *

18 (4)(A) With respect to a facility located in the State, in response to a
19 request from one or more members of the public or a party, the Public Utility
20 Commission shall hold a nonevidentiary public hearing on a petition for such

1 finding and certificate. The public hearing shall either be remotely accessible
2 or held in at least one county in which any portion of the construction of the
3 facility is proposed to be located, or both. The Commission in its discretion
4 may hold a nonevidentiary public hearing in the absence of any request from a
5 member of the public or a party. From the comments made at a public hearing,
6 the Commission shall derive areas of inquiry that are relevant to the findings to
7 be made under this section and shall address each such area in its decision.
8 Prior to making findings, if the record does not contain evidence on such an
9 area, the Commission shall direct the parties to provide evidence on the area.
10 This subdivision does not require the Commission to respond to each
11 individual comment.

12 * * *

13 (i)(1) No company, as defined in sections 201 and 203 of this title, without
14 approval by the Commission, after giving notice of such investment; or filing a
15 copy of that contract; with the Commission and the Department at least 30
16 days prior to the proposed effective date of that contract or investment:

17 (A) may invest in a gas-production facility located outside this State;

18 or

19 (B) may execute a contract for the purchase of gas from outside the
20 State, for resale to firm-tariff customers, that:

21 (i) is for a period exceeding five years; or

1 (ii) represents more than 10 percent of that company's peak
2 demand for resale to firm-tariff customers.

3 (2) The Department and the Commission shall consider within 30 days
4 whether to investigate the proposed investment or contract.

5 (3) The Commission, upon its own motion, or upon the recommendation
6 of the Department, may determine to initiate an investigation. If the
7 Commission does not initiate an investigation within such 30-day period, the
8 contract or investment shall be deemed to be approved. If the Commission
9 determines to initiate an investigation, it shall give notice of that decision to
10 the company proposing the investment or contract, the Department, and such
11 other persons as the Commission determines are appropriate. The Commission
12 shall conclude its investigation within 120 days of issuance of its notice of
13 investigation, or within such shorter period as it deems appropriate, unless the
14 company consents to waive the 120-day requirement. ~~If~~ Except when the
15 company consents to waive the 120-day requirement, if the Commission fails
16 to issue a decision within that 120-day period, the contract or investment shall
17 be deemed to be approved. The Commission may hold informal, public, or
18 evidentiary hearings on the proposed investment or contract.

19 * * *

20 (u) ~~For an energy storage facility, a~~ A certificate under this section shall
21 only be required for ~~a stationary~~ an energy storage facility ~~exporting to the grid~~

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

12 Sec. 2. 30 V.S.A. § 101 is amended to read:

13 § 101. CORPORATIONS SUBJECT TO COMMISSION; FORMATION

14 (a) Subject to the additional or varied requirements of this chapter, a
15 corporation may be formed pursuant to the provisions of the general
16 corporation law for the sole purpose of conducting any one or more of the
17 kinds of business, other than a railroad business, ~~which~~ that are subject to
18 regulation by the Public Utility Commission.

19 (b) Unless the context clearly requires otherwise, references in this title to a
20 “corporation” mean and include an individual, partnership, association,

1 corporation, limited liability company, municipality, cooperative, and any
2 other legally recognized entity or person.

3 (c) Unless the context clearly requires otherwise, references in this title to
4 “articles of incorporation” mean and include articles of organization,
5 partnership agreements, or other documentation submitted to the Vermont
6 Secretary of State to register or form a business.

7 * * * Hearings * * *

8 Sec. 3. 30 V.S.A. § 506 is amended to read:

9 § 506. RENEWAL

10 Certificates with a limited duration may be renewed during or at the end of
11 the period, after opportunity for hearing held according to the criteria for the
12 granting of an original certificate in section 504 of this title and after the
13 Commission has made the finding required by that section. As part of the
14 renewal proceedings, the Commission shall hold a public hearing. The public
15 hearing shall either be remotely accessible or held in each county served
16 pursuant to the certificates ~~which~~ that are the subject of the renewal
17 proceedings, or both.

18 Sec. 4. 30 V.S.A. § 102 is amended to read:

19 § 102. PETITION; HEARING; CERTIFICATE

20 (a) Before the articles of incorporation are transmitted to the Secretary of
21 State, the incorporators shall petition the Public Utility Commission to

1 determine whether the establishment and maintenance of ~~such~~ the corporation
2 will promote the general good of the State and shall at that time file a copy of
3 any ~~such~~ petition with the Department. The Department, within 12 days, shall
4 review the petition and file a recommendation regarding the petition in the
5 same manner as is set forth in subsection 225(b) of this title. ~~Such~~ The
6 recommendation shall set forth reasons why the petition shall be accepted
7 without hearing or shall request that a hearing on the petition be scheduled. If
8 the Department requests a hearing on the petition, or, if the Commission deems
9 a hearing necessary, it shall appoint a time and place either remotely accessible
10 or in the county where the proposed corporation is to have its principal office
11 for hearing the petition, ~~and shall make an order for the publication of the~~
12 ~~substance thereof and of the time and place of hearing two weeks successively~~
13 ~~in a newspaper of general circulation in the county to be served by the~~
14 ~~corporation, the last publication to be at least 12 days before the day appointed~~
15 ~~for the hearing.~~ At least 12 days before this hearing, notice of the hearing shall
16 be published on the Commission's website and once in a newspaper of general
17 circulation in the county in which the proposed corporation is to have its
18 principal office. The website notice shall be maintained through the date of the
19 hearing. The newspaper notice shall include an Internet address where more
20 information regarding the petition may be viewed. The Department of Public

1 Service, through the Director for Public Advocacy, shall represent the public at
2 the hearing.

3 * * *

4 Sec. 5. 30 V.S.A. § 227 is amended to read:

5 § 227. SUSPENSION, REFUND

6 (a) If the Commission orders that a change shall not go into effect until
7 final determination of the proceedings, it shall proceed to hear the matter as
8 promptly as possible and shall make its determination within seven months
9 from the date that it orders the investigation unless the company consents to
10 waive the seven-month requirement. If a company files for a change in rate
11 design among classes of ratepayers, and the company has a rate case pending
12 before the Commission, the Commission shall make its determination on the
13 rate design change within seven months after the rate case is decided by the
14 Commission unless the company consents to waive the seven-month
15 requirement. ~~If~~ Except when the company consents to waive the seven-month
16 requirement, if the Commission fails to make its determination within the time
17 periods set by this subsection, the changed rate schedules filed by the company
18 shall become effective and final.

19 * * *

1 regular, adjourned, or special session thereof, and until after the expiration of
2 45 legislative days of that session, including the date of the filing of the report.

3 (5) The General Assembly may repeal, revise, or modify any rule or
4 amendment, and its action shall not be abridged, enlarged, or modified by
5 subsequent rule.

6 (6) The Commission shall adopt rules that include, among other things,
7 provisions that:

8 ~~(1)~~(A) A utility whose rates are suspended under the provisions of
9 section 226 of this title shall, within 30 days from the date of the suspension
10 order, file with the Commission all exhibits it intends to use in the hearing
11 thereon together with the names of witnesses it intends to produce in its direct
12 case and a short statement of the purposes of the testimony of each witness.
13 Except in the discretion of the Commission, a utility shall not be permitted to
14 introduce into evidence in its direct case exhibits which are not filed in
15 accordance with this rule.

16 ~~(2)~~(B) A scheduling conference shall be ordered in every contested rate
17 case. At such conference the Commission may require the State or any person
18 opposing such rate increase to specify what items shown by the filed exhibits
19 are conceded. Further proof of conceded items shall not be required.

20 * * *

1 Sec. 7. 12 V.S.A. § 2 is amended to read:

2 § 2. DEFINITIONS

3 As used in sections 3 and 4 of this chapter:

4 (1) “Adopting authority” means the Chief Justice of the Supreme Court
5 or the Chief Superior Judge, where appropriate.

6 (2) “Commission” means the Public Utility Commission.

7 (3) “Court” means the Supreme Court, except in those instances where
8 the statutes permit rules to be adopted by the Chief Superior Judge, in which
9 case, the word “court” means the Chief Superior Judge.

10 ~~(3)~~(4) “Rule” means a statement of general applicability that
11 implements, interprets, or prescribes law or policy or the general procedural
12 rules codified in Commission Rule 2.000. It includes judicial or administrative
13 orders such as those issued under sections 31 and 37 of the Constitution of the
14 State of Vermont and all substantive or procedural requirements of a court,
15 which affect one or more persons who are not employees of the court, which
16 are used by the court in the discharge of its duties. It shall not include judicial
17 orders or opinions issued in the resolution of a case or controversy. It shall not
18 include any orders or rules of the Commission other than the general
19 procedural rules codified in Commission Rule 2.000.

1 Sec. 8. 12 V.S.A. § 3 is amended to read:

2 § 3. LEGISLATIVE COMMITTEE ON JUDICIAL RULES

3 * * *

4 (d) In addition to its powers under section 4 of this title concerning rules,
5 the Committee may, in a similar manner, conduct public hearings, object, and
6 notify the Court or Commission of objections concerning existing rules. A
7 rule reviewed under this subsection shall remain in effect until amended or
8 repealed.

9 (e) Rules or amendments thereto promulgated by the Supreme Court or the
10 Commission, including any repeal, modification, or addition to existing rules,
11 shall be submitted to the Legislative Committee on Judicial Rules at least 60
12 days prior to their effective date.

13 Sec. 9. 12 V.S.A. § 4 is amended to read:

14 § 4. REVIEW BY LEGISLATIVE COMMITTEE

15 (a) The Legislative Committee on Judicial Rules, by majority vote of the
16 entire Committee, may object to proposed rules or amendments and
17 recommend that the Court or the Commission amend or withdraw the proposal.
18 The Court or the Commission shall be notified promptly of the objections. The
19 Court or the Commission may respond in writing to the Committee. After
20 receipt of a response, the Committee may withdraw or modify its objections.

1 (b) The Committee shall report on each proposal with the Committee's
2 recommendations; annually to the General Assembly on or before January 10.

3 * * *

4 Sec. 10. 3 V.S.A. § 810 is amended to read:

5 § 810. RULES OF EVIDENCE; OFFICIAL NOTICE

6 In contested cases:

7 (1) Irrelevant, immaterial, or unduly repetitious evidence shall be
8 excluded. The Rules of Evidence as applied in civil cases in the Superior
9 Courts of this State shall be followed. When necessary to ascertain facts not
10 reasonably susceptible of proof under those rules, evidence not admissible
11 thereunder may be admitted (except where precluded by statute) if it is of a
12 type commonly relied upon by reasonably prudent ~~men~~ persons in the conduct
13 of their affairs. Agencies shall give effect to the rules of privilege recognized
14 by law. Objections to evidentiary offers may be made and shall be noted in the
15 record. Subject to these requirements, when a hearing will be expedited and
16 the interests of the parties will not be prejudiced substantially, any part of the
17 evidence may be received in written form.

18 * * *

19 * * * Effective Date * * *

20 Sec. 11. EFFECTIVE DATE

21 This act shall take effect on July 1, 2023.