

1 H.710

2 Introduced by Representatives Campbell of St. Johnsbury and James of

3 Manchester

4 Referred to Committee on

5 Date:

6 Subject: Public service; utility companies; renewable energy programs;

7 definitions; plant

8 Statement of purpose of bill as introduced: This bill proposes to amend the
9 definition of “plant” to clarify when the Public Utility Commission would
10 consider multiple energy-generating facilities to be a single facility. This bill
11 would consider a plant with multiple energy-generating facilities to be a single
12 facility if the facilities use the same electricity-generating technology and if
13 the facilities are on the same parcel or contiguous parcels of land, unless an
14 exception applies.

15 An act relating to defining electricity generating facilities

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

17 ~~Chapter 100 V.S.A. § 8002 is amended to read:~~

18 § 8002. DEFINITIONS

19 ~~As used in this chapter:~~

1 ~~*****~~

2 (18) "Plant" means an independent technical facility that generates

3 electricity from renewable energy. A group of facilities, such as wind turbines,

4 shall be considered one plant if the group is part of the same project and uses

5 common equipment and infrastructure such as roads, control facilities, and

6 connections to the electric grid. Common ownership, contiguity in time of

7 construction, and proximity of facilities to each other shall be relevant to

8 determining whether a group of facilities is part of the same project. Multiple

9 electricity-generating facilities, regardless of when each is constructed, shall be

10 considered one plant if the facilities use the same electricity-generating

11 technology and are located on the same parcel or contiguous parcels of land.

12 Such facilities shall only be considered separate plants if they meet one of the

13 following exceptions:

14 (A) Exception for individual net-metering and self-consumption.

15 Applies if the facilities:

16 (i) are not located on the same parcel of land;

17 (ii) are wired to offset consumption on separate billing meters;

18 and

19 (iii) supply different retail customers.

20 (B) Exception for multi-owner individual net-metering on the same

21 parcel. Applies if the facilities:

1 ~~(i) are located on the same parcel of land where a common~~
2 ~~interest community is located;~~

3 ~~(ii) are wired to offset consumption on separate billing meters;~~
4 ~~and~~

5 ~~(iii) supply different retail customers.~~

6 ~~(C) Exception for colocation of renewable energy program facilities.~~

7 ~~More than one facility may be located on the same parcel or contiguous~~
8 ~~parcels with net-metering, Standard Offer Program facilities, or other~~

9 ~~Renewable Energy Standard Tier II facilities when:~~

10 ~~(i) the facilities have separate points of interconnection; and~~

11 ~~(ii) not more than the statutory capacity cap for net-metering or~~
12 ~~the statutory capacity cap for the Standard Offer Program is sited on the same~~
13 ~~parcel or contiguous parcels and a net-metering facility and a Standard Offer~~
14 ~~facility are not sited on the same parcel or contiguous parcels.~~

15 * * *

16 ~~(33) “Common interest community” means real estate described in a~~
17 ~~declaration with respect to which a person, by virtue of the person’s ownership~~
18 ~~of a unit, is obligated to pay for a share of real estate taxes on, insurance~~
19 ~~premiums, maintenance, or improvement of, or services or other expenses~~
20 ~~related to common elements, other units, or other real estate than that unit~~
21 ~~described in the declaration.~~

1 ~~(34) “Contiguous” means sharing a property boundary with another~~
2 ~~parcel of land or being adjacent to that parcel of land and the two parcels are~~
3 ~~separated only by a road, recreation path, railway line, stream, or river.~~

4 ~~(35) “Electricity generating technology” means a method or system~~
5 ~~used to convert energy from one form into electric power, including wind,~~
6 ~~hydropower or water, solar, or biomass.~~

7 ~~(36) “Point of interconnection” means the point on the interconnecting~~
8 ~~utility’s existing distribution system to which a facility proposes to~~
9 ~~interconnect.~~

10 Sec. 2. EFFECTIVE DATE

11 ~~This act shall take effect on July 1, 2026.~~

Sec. 1. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

** * **

(18) “Plant” means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to

~~determining whether a group of facilities is part of the same project. Multiple electricity-generating facilities, regardless of when each is constructed, shall be considered one plant if the facilities use the same electricity-generating technology and are located on the same parcel or contiguous parcels of land. Such facilities shall only be considered separate plants if they meet one of the following exceptions:~~

~~(A) Exception for individual net-metering and self-consumption.~~

~~Applies if the facilities:~~

~~(i) are not located on the same parcel of land;~~

~~(ii) are wired to offset consumption on separate billing meters;~~

~~and~~

~~(iii) supply different retail customers.~~

~~(B) Exception for multi-owner individual net-metering on the same parcel. Applies if the facilities:~~

~~(i) are located on the same parcel of land where a common interest community is located;~~

~~(ii) are wired to offset consumption on separate billing meters;~~

~~and~~

~~(iii) supply different retail customers.~~

~~(C) Exception for colocation of facilities other than net metering program or Standard Offer Program facilities. Applies if the facilities have separate points of interconnection if:~~

~~(i) a net-metering facility and a Standard Offer Program facility are not sited on the same parcel or contiguous parcels; and~~

~~(ii) the statutory capacity cap for the net-metering program or the Standard Offer Program is not exceeded on the same parcel or contiguous parcels.~~

~~***~~

~~(33) “Common interest community” means real estate described in a declaration with respect to which a person, by virtue of the person’s ownership of a unit, is obligated to pay for a share of real estate taxes on, insurance premiums, maintenance, or improvement of, or services or other expenses related to common elements, other units, or other real estate than that unit described in the declaration.~~

~~(34) “Contiguous” means sharing a property boundary with another parcel of land or being adjacent to that parcel of land and the two parcels are separated only by a road, recreation path, railway line, stream, or river.~~

~~(35) “Electricity-generating technology” means a method or system used to convert energy from one form into electric power, including wind, hydropower or water, solar, or biomass.~~

~~(36) "Point of interconnection" means the point on the interconnecting utility's existing distribution system to which a facility proposes to interconnect.~~

Sec. 2. EFFECTIVE DATE

~~This act shall take effect on July 1, 2020.~~

Sec. 1. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

~~(18) "Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project. Multiple electricity-generating facilities, regardless of when each is constructed, shall be considered one plant if the facilities use the same electricity-generating technology and are located on the same parcel or contiguous parcels of land. However, such facilities shall be considered separate plants if:~~

(A) the facilities are for individual net metering or self-consumption
and:

(i) are not located on the same parcel of land;

(ii) are wired to offset consumption on separate billing meters;

and

(iii) supply different retail customers;

(B) the facilities are for multi-owner individual net metering and:

(i) are located on the same parcel of land where a common
interest community is located;

(ii) are wired to offset consumption on separate billing meters;

and

(iii) supply different retail customers; or

(C) the facilities have separate points of interconnection and:

(i) a net-metering facility and a Standard Offer Program facility
are not sited on the same parcel or contiguous parcels; and

(ii) for facilities under each program, the total capacity located on
a parcel or contiguous parcels does not exceed the program's statutory
capacity cap.

* * *

(33) "Common interest community" means real estate described in a
declaration with respect to which a person, by virtue of the person's ownership

of a unit, is obligated to pay for a share of real estate taxes on; insurance premiums, maintenance, or improvement of; or services or other expenses related to common elements, other units, or other real estate than the unit described in the declaration.

(34) “Contiguous” means sharing a property boundary with another parcel of land or being adjacent to that parcel of land and the two parcels are separated only by a road, recreation path, railway line, stream, or river.

(35) “Electricity-generating technology” means a method or system used to convert energy from one form into electric power, including wind, hydropower or water, solar, or biomass.

(36) “Point of interconnection” means the point on the interconnecting utility’s existing distribution system to which a facility proposes to interconnect.

Sec. 2. LEGISLATIVE INTENT

It is the intent of the General Assembly that the amendments in Sec. 1, 30 VSA 8002, of this act are substantive and create new rights and liabilities in light of emerging issues and shall apply only to applications filed on or after the effective date of this act.

~~Sec. 2a. PRIMARY AGRICULTURAL SOILS AND SOLAR REPORT~~

~~(a) On or before January 15, 2027, the Commissioner of Public Service, after consultation with the Secretary of Agriculture, Food and Markets, shall report back on the following questions:~~

~~(1) Over the last five years, how many acres of primary agricultural soils have been developed for any purpose? What share of this development is attributable to solar energy generation projects?~~

~~(2) How many acres of primary agricultural soils used for solar energy generation development were directly impacted by the project, as opposed to the acreage that is within the project's area of disturbance?~~

~~(3) How many acres of primary agricultural soils developed for solar energy generation were in active agricultural use immediately before development, and what was the agricultural usage?~~

~~(4) How many acres of primary agricultural soils developed for solar energy generation projects remain owned by farmers?~~

~~(5) How many acres of trees have been cleared for solar energy generation projects in this time frame, broken down by forest type?~~

~~(b) The Commissioner shall include in the report recommendations on how to encourage the siting of solar energy generation on land that has already been disturbed, including rooftops and parking lots, and potential financial~~

~~structures that would make solar energy generation on those sites more financially feasible.~~

~~(c) The report shall be submitted to the House Committees on Agriculture, Food Resiliency, and Forestry and on Energy and Digital Infrastructure and the Senate Committees on Agriculture and on Natural Resources and Energy.~~

Sec. 2a. PRIMARY AGRICULTURAL SOILS AND SOLAR REPORT

(a) On or before January 15, 2027, the Commissioner of Public Service, after consultation with the Secretary of Agriculture, Food and Markets, the Public Utility Commission, and the Agency of Natural Resources, shall report back on the following questions:

(1) In the last two years, for solar energy generation projects with a capacity of 1 MW or greater, how many acres of primary agricultural soils used for solar energy generation development were directly impacted by the project, as opposed to the acreage that is within the project's area of disturbance?

(2) In the last two years, what are the cumulative impacts, in acres, of forest clearing associated with solar energy generation projects with a capacity of 1 MW or greater, and what are the specific impacts on the Highest Priority Landscapes identified by Vermont Conservation Design as well as any impacts on State-Significant natural communities?

(b) The Commissioner shall include in the report recommendations on how to encourage the siting of solar energy generation on land that has already been disturbed, including rooftops and parking lots, and potential financial structures that would make solar energy generation on those sites more financially feasible.

(c) The report shall be submitted to the House Committees on Agriculture, Food Resiliency, and Forestry and on Energy and Digital Infrastructure and the Senate Committees on Agriculture and on Natural Resources and Energy.

Sec. 3. 30 V.S.A. § 20 is amended to read:

§ 20. PARTICULAR PROCEEDINGS AND ACTIVITIES; PERSONNEL

(a)(1) The Commission or the Department of Public Service may authorize or retain legal counsel, official stenographers, expert witnesses, advisors and consultants, temporary employees, and other providers of research, scientific, financial, economic, actuarial, accounting, or engineering services:

* * *

(F) To investigate, review, plan, oversee, or carry out the decommissioning and site restoration required by a certificate of public good issued to an electric generation or energy storage facility.

* * *

Sec. 4. 30 V.S.A. § 248e is added to read:

§ 248e. ELECTRIC GENERATION AND ENERGY STORAGE FACILITY

DECOMMISSIONING FUND

(a) There is created the Electric Generation and Energy Storage Facility Decommissioning Fund that shall be a special fund created pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be administered by the Chair of the Public Utility Commission. The Chair is authorized to collect surety fees for the Decommissioning Fund and to make disbursements from the Decommissioning Fund.

(b) Deposits to the Decommissioning Fund shall consist of all decommissioning surety fees collected for electric generation and energy storage facilities that have received a certificate of public good from the Commission and all monies drawn from decommissioning financial instruments. The Commission shall deposit into the Decommissioning Fund each decommissioning surety fee it receives under this subchapter.

(c) Disbursements from the Decommissioning Fund may be made by the Chair to undertake actions that the Commission considers necessary to investigate or mitigate, or both, the effects of an abandoned, nonoperational, or disclaimed electric generation or energy storage facility. Disbursements under this subsection may be made to:

(1) pay costs to third parties who initiate or complete facility decommissioning and site restoration where the holder of the certificate of public good is unknown, cannot be contacted, is unwilling to take action, is incapable of carrying out decommissioning or site restoration, or does not take timely action as ordered by the Commission;

(2) investigate ownership of or ascertain the holder of the certificate of public good for an electric generation or energy storage facility;

(3) take other appropriate remedial action;

(4) pay costs to persons retained by the Commission or the Department under subdivision 20(a)(1)(F) of this title; or

(5) return portions of the decommissioning surety fees as determined by a formula established by the Commission to individual certificate of public good holders upon satisfactory completion of decommissioning and Commission approval.

(d) For purposes of this section:

(1) "Chair" means the Chair of the Public Utility Commission.

(2) "Commission" means the Public Utility Commission.

(3) "Decommissioning" means to remove a facility safely from service and to restore the site to its condition before the facility was installed consistent with the facility's certificate of public good and Commission rules and orders.

(4) “Decommissioning Fund” means the Electric Generation and Energy Storage Facility Decommissioning Fund established pursuant to this section.

(5) “Decommissioning surety fee” means the contribution assigned to a facility and determined by a funding formula established by the Commission, not to exceed the average cumulative cost of obtaining decommissioning financial instruments for the life of a facility. The “average cumulative cost” means the customary and reasonable market-based third-party costs; expenses and fees associated with obtaining, maintaining, renewing, and updating financial instruments; and staff and attorney time and expenses.

(6) “Department” means the Department of Public Service.

(e) Balances in the Decommissioning Fund shall be expended only for the purposes authorized in this section and shall not be used for the general obligations of government or for other governmental purposes. All balances in the Decommissioning Fund at the end of any fiscal year shall be carried forward and remain within the Decommissioning Fund. Interest earned by the Decommissioning Fund shall be credited to the Decommissioning Fund.

(f) The Commission shall have authority to adopt rules or issue orders implementing this section.

(g) The Commission shall provide to the Treasurer of the State of Vermont an annual accounting of the Decommissioning Fund.

Sec. 5. DECOMMISSIONING FUND REPORT

On or before February 15, 2027, the Public Utility Commission shall report back to the House Committee on Energy and Digital Infrastructure and the Senate Committees on Natural Resources and Energy and on Finance on the formula established for the decommissioning surety fees pursuant to 30 V.S.A. § 248e.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2026.