

1 H.720
2 Introduced by Representatives Priestley of Bradford and Sibilia of Dover
3 Referred to Committee on
4 Date:
5 Subject: Utilities; Public Utility Commission; Department of Public Service;
6 cloud computing service; consumer protection
7 Statement of purpose of bill as introduced: This bill proposes to establish
8 cloud computing service as a type of utility service in Vermont subject to the
9 jurisdiction and regulatory authority of the Public Utility Commission and the
10 Department of Public Service.

11 An act relating to the Cloud Computing Public Utility Act
12 It is hereby enacted by the General Assembly of the State of Vermont:
13 Sec. 1. FINDINGS
14 The General Assembly finds that:
15 (1) The business of cloud computing is one of relatively recent origin,
16 its growth has been rapid, and it is already of great importance to the residents
17 and the economic vitality of Vermont.
18 (2) For both private and public entities, on-demand internet access to a
19 shared pool of compute resources—such as networks, servers, storage,
20 analytics, databases, and software—with pay-as-you go pricing, can generate

1 significant cost savings and improve an entity's scalability, operational
2 efficiency, and resource management.

3 (3) Individual consumers, also, may benefit from cost savings as well as
4 the increased accessibility, mobility, reliability, and security that is generally
5 available through cloud computing.

6 (4) The accelerated commercial growth of cloud computing and its
7 commensurate importance to the general welfare of the State underscores that
8 this service has become affected with a public interest and, therefore, should be
9 subject to the jurisdiction and supervision of the Public Utility Commission
10 and the Department of Public Service.

11 (5) As cloud migration increases, it is imperative that the State ensure
12 that the market remains free of anticompetitive and unfair or deceptive
13 business practices, such as vendor lock-in, excessive data egress or termination
14 fees, opaque and complex pricing, and insufficient data privacy and security
15 safeguards.

16 (6) By enforcing targeted regulatory requirements and monitoring the
17 cloud service market, generally, the Public Utility Commission and the
18 Department of Public Service are well positioned to ensure that cloud
19 computing service is offered fairly and reliably in Vermont and in a manner
20 that serves the public good.

1 Sec. 2. 30 V.S.A. chapter 15 is added to read:

2 **CHAPTER 15. CLOUD COMPUTING SERVICE**

3 **§ 621. TITLE**

4 This chapter may be cited as the “Cloud Computing Public Utility Act.”

5 **§ 622. PURPOSE**

6 It is the purpose of this chapter to establish a regulatory environment for
7 cloud computing service that promotes innovation, competition, and economic
8 efficiencies and simultaneously protects the residents and the general welfare
9 of Vermont.

10 **§ 623. DEFINITIONS**

11 As used in this chapter:

12 (1) “Cloud computing” has the same meaning as in National Institute of
13 Standards and Technology (NIST) Special Publication 800-145, or any
14 successor document published by NIST, and comprises five essential
15 characteristics; four deployment models; and three service models, Software as
16 a Service, Platform as a Service, and Infrastructure as a Service, as described
17 therein. However, with respect to deployment models, this chapter only
18 applies to a public cloud or to a hybrid cloud but only to the extent it comprises
19 distinct public cloud infrastructure.

20 (2) “Cloud computing service” or “cloud service” means a mass-market
21 retail service in Vermont that provides cloud computing where the consumer

1 does not manage or control the underlying cloud infrastructure, including
2 network, servers, operating systems, or storage. The term does not include:
3 (A) data-storage service offered on a stand-alone basis; or
4 (B) a software as a service (SaaS) offering where an application is
5 made available to a consumer through cloud infrastructure and where access to
6 cloud computing is incidental to the SaaS offering.

7 (3) “Cloud service provider” means a company or that part of a
8 company that provides cloud computing service that exceeds, specific to
9 Vermont, either a gross operating revenue threshold or a consumer-count
10 threshold established by the Public Utility Commission. The Commission
11 shall establish these thresholds by rule or, after notice and hearing, by order.

12 (4) “Commission” means the Public Utility Commission.

13 (5) “Company” means a corporation, partnership, sole proprietorship,
14 limited liability company, association, or any other incorporated or
15 unincorporated legal entity engaged in the business of providing cloud
16 computing service to the general public in this State.

17 (6) “Consumer” means a person to whom a cloud service provider sells
18 cloud computing service.

19 (7) “Department” means the Department of Public Service.

20 (8) “Person” has the same meaning as in 1 V.S.A. § 128.

1 § 624. JURISDICTION

2 (a) The Public Utility Commission and the Department of Public Service
3 shall have jurisdiction over cloud service providers in this State, including their
4 directors, receivers, trustees, lessees, or other persons owning or operating the
5 companies, and all plants and equipment used in or about the business carried
6 on by them in this State as covered and included in this chapter. This
7 jurisdiction shall be exercised by the Commission and the Department so far as
8 may be necessary to enable them to perform the duties and exercise the powers
9 conferred upon them by law.

10 (b) In addition to the provisions of this chapter, a cloud service provider
11 shall have the privileges provided in and be subject to the requirements of
12 chapters 1 and 7 of this title in the same manner as other public service
13 companies subject to the supervision of the Commission and the Department
14 unless such privileges and requirements are inconsistent with the provisions of
15 this chapter, in which case the provisions of this chapter shall control.

16 § 625. CERTIFICATE OF PUBLIC GOOD

17 A cloud service provider seeking to own or operate a cloud service business
18 in this State shall first petition the Commission to determine whether the
19 operation of such business will promote the general good of the State pursuant
20 to the procedures and requirements established in section 231 of this title and

1 shall be subject to the supervision of the Commission and the Department as
2 provided in that section and in this chapter.

3 § 626. SERVICE QUALITY

4 A cloud service provider shall furnish and maintain reasonably adequate,
5 efficient, just, reasonable, and reliable cloud service to the public.

6 § 627. NONDISCRIMINATION; PROHIBITED PRACTICES

7 (a) A cloud service provider shall provide cloud service upon reasonable
8 request, and without unjust discrimination. A provider shall not furnish service
9 or charge rates in a manner that gives undue or unreasonable preference or
10 advantage to any person or class of persons or, conversely, gives undue or
11 unreasonable prejudice or disadvantage to any person or class of persons.

12 (b) The Commission may prescribe by rule or order specific conduct or
13 business practices that constitute unjust discrimination under this section and
14 may further prescribe measures for preventing such conduct or practices.

15 Unjust business practices include unreasonably denying, blocking, or
16 degrading lawful service to any person or class of persons.

17 § 628. RATE SCHEDULE; TERMS OF SERVICE; FILING

18 (a) Within a time and in a form and manner prescribed by order of the
19 Commission, a cloud service provider shall file with the Commission and the
20 Department a rate schedule. The rate schedule shall include the rates, fees, and

1 charges applicable to the provider's existing cloud service offerings and shall
2 also include the terms of service relating to its service.

3 (b) A rate schedule shall be just and reasonable. A rate schedule is
4 presumed to be just and reasonable in a competitive market. The Department
5 shall investigate the justness and reasonableness of a rate schedule and any
6 subsequent changes to a rate schedule or terms of service. Upon
7 recommendation of the Department, or on its own motion and after notice and
8 hearing, the Commission may modify a rate schedule or any terms of service it
9 finds are unjust, unreasonable, or unfairly discriminatory.

10 (c)(1) The cloud service market in this State is presumed to be competitive
11 unless the Commission determines, after notice and hearing, that a
12 noncompetitive market exists. A determination that a noncompetitive market
13 exists shall be based on the Commission's assessment that the existing
14 regulatory requirements are not sufficient to ensure that cloud service rate
15 schedules and terms of service are just and reasonable and are not unjustly or
16 unreasonably discriminatory. When assessing market conditions for purposes
17 of this section, the Commission shall consider such factors as market
18 dominance, inefficiencies caused by market power, barriers to market entry,
19 service differentiation, burdens on data portability, and any other factor
20 deemed relevant by the Commission.

1 (2) If the Commission determines a noncompetitive market exists under
2 subdivision (1) of this subsection, the Commission shall adopt by rule
3 standards and requirements necessary to protect the consuming public and the
4 general welfare of the State, including more stringent rate regulations and other
5 measures designed to protect consumers and the free flow of commerce.

6 § 629. AFFORDABILITY; BASELINE SERVICE

7 The Public Utility Commission may establish and periodically review
8 baseline cloud computing service offerings for specified customer classes and
9 may cap the maximum rates for such offerings, subject to hardship exemptions
10 for small providers. When considering and reviewing potential customer
11 classes as authorized by this section, the Commission shall take into
12 consideration the needs of small businesses, public entities, nonprofit
13 organizations, and low-income consumers.

14 § 630. TRANSPARENCY; CONSUMER DISCLOSURES

15 (a) Upon the request of a consumer or prospective consumer, a cloud
16 service provider shall promptly disclose in written form the rate, fees, charges,
17 and terms of service applicable to the consumer or prospective consumer based
18 on stated resource usage and other pertinent information. The disclosure form
19 required by this section shall also include the provider's resource-management
20 practices, performance characteristics, and any other commercial terms

1 sufficient to enable a consumer or prospective consumer to make informed
2 choices about cloud service options.

3 (b) After establishing service with a consumer, a provider may increase a
4 fee or add a new fee only after providing notice to the consumer. The
5 increased or new fee shall be effective not sooner than 60 days after the notice
6 is mailed to the consumer and provided such effective date does not conflict
7 with the expiration date of an existing fee.

8 § 631. CONSUMER DATA PORTABILITY

9 (a) Upon the request of a consumer, a cloud service provider shall provide
10 configuration, meta data, images, and other workload artifacts in a portable,
11 commonly used, and readily usable format that allows the consumer to
12 transmit such data to another cloud service provider without hindrance, subject
13 to security and integrity safeguards. A cloud service provider shall not charge
14 an excessive fee for the provision of this data to a consumer.

15 (b) A cloud service provider shall not charge or collect from a consumer a
16 service termination fee.

17 § 632. OPEN ACCESS TO FACILITIES

18 (a) For the purpose of fostering a competitive market, a cloud service
19 provider shall allow and enable access to its plant and equipment in Vermont
20 for the installation, interconnection, and maintenance of another provider's
21 cloud infrastructure. The company providing such access shall develop a

1 statement of the generally available rates, terms, and conditions applicable to
2 such installations. A copy of this statement shall be filed with the Public
3 Utility Commission and the Department of Public Service in a form and
4 manner prescribed by the Commission.

5 (b) The Commission, upon petition of the Department or upon its own
6 motion, may investigate the rates, terms, and conditions in effect for a provider
7 and may alter or change the rates, terms, or conditions if, after notice and
8 hearing, the Commission determines such rates, terms, or conditions are not
9 just and reasonable or are unfairly discriminatory.

10 (c) The Commission shall adopt rules to implement this section. For the
11 purpose of promoting competition and open access, the rules shall specify that
12 exclusive contracts or provisions thereof that are solely intended to inhibit
13 other providers from accessing facilities are in violation of this section. Access
14 to facilities shall not be permitted if such access would impair a provider's
15 ability to render adequate service to its consumers or ensure the privacy and
16 security of consumer data.

17 (d) The Commission shall have authority to arbitrate disputes between or
18 among providers or prospective providers that arise pursuant to this section and
19 shall prescribe by rule or order standards and procedures for efficient dispute
20 resolution.

1 § 633. REGULATORY FEES

2 For the purpose of contributing to the maintenance of the Public Utility
3 Commission and the Department of Public Service, beginning on or before
4 April 15, 2028, and annually thereafter, a cloud service provider shall be
5 subject to section 22 of this title and, accordingly, shall pay into the State
6 Treasury taxes on the provider's gross operating revenue from its regulated
7 cloud service business in this State. The tax rate or rates required by this
8 section shall be established by legislative enactment of the General Assembly,
9 upon consideration of recommendations received by the Public Utility
10 Commission and the Department of Public Service, respectively.

11 § 634. PROVIDER REPORT

12 Upon request of the Public Utility Commission and in a form and manner
13 prescribed by the Commission, a cloud service provider shall submit periodic
14 reports to the Commission and the Department of Public Service. These
15 reports shall include information sufficient for the Commission to monitor
16 cloud service availability, resource-management practices, portability
17 performance, quality of service, rates and fees, and a summary of consumer
18 complaints filed in the immediately preceding 12 months and a description of
19 how those complaints were resolved.

1 § 635. COMMISSION NEEDS ASSESSMENT

2 (a) Beginning on or before January 15, 2028, and every three years
3 thereafter, the Commission shall submit a needs assessment to the House
4 Committees on Energy and Digital Infrastructure and on Environment and the
5 Senate Committees on Finance and on Natural Resources and Energy. This
6 needs assessment shall include findings and recommendations concerning
7 Vermont's cloud service needs, including with respect to the subjects itemized
8 in subsection (b) of this section.

9 (b) The needs assessment required by this section shall include:

10 (1) current and projected demand for cloud computing service by
11 Vermont businesses, institutions, governmental entities, and residents;
12 (2) an evaluation of existing in-State and regional data center capacity
13 and cloud service provider options;
14 (3) identification of cloud infrastructure gaps that may limit economic
15 development, innovation, or essential services;

16 (4) an analysis of the relationship between energy and water demand
17 and cloud infrastructure deployment, including data center energy and water
18 consumption patterns;

19 (5) an assessment of long-term energy and water needs based on current
20 and projected computing needs;

1 (6) strategies for ensuring reliable, affordable, and secure access to
2 compute resources for all Vermont residents;
3 (7) the environmental impact of data centers and cloud infrastructure
4 and the applicability of energy efficiency and renewable energy standards; and
5 (8) any other matters deemed relevant by the Commission.
6 (c) In preparing the needs assessment required by this section, the
7 Commission shall hold at least one public hearing and shall seek input from the
8 public and relevant stakeholders, including:
9 (1) cloud computing service providers operating in Vermont;
10 (2) representatives of small businesses and startups requiring cloud
11 service;
12 (3) representatives of educational institutions and health care
13 organizations relying on cloud service;
14 (4) data center operators and developers; and
15 (5) cybersecurity and digital infrastructure experts.

16 § 636. CONFIDENTIALITY

17 The Public Utility Commission and the Department of Public Service shall
18 maintain the confidentiality of any information received under this chapter that
19 they determine is exempt from public inspection and copying under the Public
20 Records Act or other applicable law, unless disclosure is ordered by a court.

1 § 637. RULES AND ORDERS

2 (a) In addition to the rules and orders otherwise required by this chapter,

3 the Commission may adopt any other rules or issue any other orders the

4 Commission deems necessary to implement the provisions of this chapter,

5 including:

6 (1) minimum service reliability and uptime standards;

7 (2) data security, privacy, and backup requirements;

8 (3) service-level agreement standards and consumer protection

9 requirements;

10 (4) interoperability and data portability requirements;

11 (5) disaster recovery and business continuity requirements;

12 (6) consumer notification procedures for service changes, outages, or
13 security incidents;

14 (7) billing and pricing transparency and accuracy standards;

15 (8) procedures concerning consumer complaints and efficient dispute
16 resolution;

17 (9) technical specifications for data center facilities serving Vermont
18 consumers; and

19 (10) environmental and energy efficiency standards for cloud
20 infrastructure.

1 **(b)(1) The Commission may revise any rules adopted pursuant to this**
2 **chapter by order of the Commission without the revisions being subject to the**
3 **rulemaking requirements of 3 V.S.A. chapter 25, provided the Commission:**
4 **(A) provides notice of any proposed changes;**
5 **(B) allows for a 30-day comment period;**
6 **(C) responds to all comments received on any proposed changes;**
7 **(D) provides a notice of language assistance services on all public**
8 **outreach materials; and**
9 **(E) arranges for language assistance to be provided to members of**
10 **the public as requested using professional language services companies.**

11 **(2) Any order issued under subsection (1) of this subsection shall be**
12 **subject to appeal to the Vermont Supreme Court under section 12 of this title,**
13 **and the Commission must immediately file any orders, a redline, and clean**
14 **version of the revised rules with the Secretary of State, with notice**
15 **simultaneously provided to the House Committee on Energy and Digital**
16 **Infrastructure and the Senate Committee on Finance.**

17 **§ 638. PENALTIES; COMPLIANCE AFFIDAVIT**

18 **(a) A cloud service provider who violates a provision of this chapter or any**
19 **other provision of this title or rule adopted or order issued pursuant to any such**
20 **provisions shall be subject to the penalties specified in section 30 of this title.**

1 (b) At any time, the Commission may require a cloud service provider to
2 file a compliance affidavit or affirmation as provided in subsection 30(g) of
3 this title.

4 § 639. EFFECT ON OTHER LAWS

5 This chapter shall not limit other statutory rights of a consumer or statutory
6 obligations of a cloud service provider under Vermont law.

7 § 640. STATUTORY CONSTRUCTION; SEVERABILITY

8 (a) It is the intent of the General Assembly that the provisions of this
9 chapter are liberally construed to accomplish its purpose.

10 (b) As provided in 1 V.S.A. § 215, the provisions of this chapter are
11 severable. If any provision of this chapter is invalid, or if any application
12 thereof to any person or circumstance is invalid, the invalidity shall not affect
13 other provisions or applications that can be given effect without the invalid
14 provision or application.

15 § 641. STATE AUTHORITY

16 The General Assembly enacts this chapter pursuant to all inherent State
17 authority under the 10th Amendment to the U.S. Constitution and to all
18 relevant authority granted and reserved to the states by Title 15 of the U.S.
19 Code, including the authority to impose requirements necessary to protect
20 public safety and welfare and safeguard the rights of consumers.

1 Sec. 3. 30 V.S.A. § 2 is amended to read:

2 § 2. DEPARTMENT POWERS

3 (a) The Department of Public Service shall supervise and direct the
4 execution of all laws relating to public service corporations and firms and
5 individuals engaged in such business, including the:

6 (1) formation, organization, ownership, and acquisition of facilities of
7 public service corporations under chapter 3 of this title;

8 * * *

9 (11) supervision and regulation of the organization and operation of
10 municipal plants under chapter 79 of this title; and

11 (12) supervision and regulation of the organization and operation of
12 electric cooperatives under chapter 81 of this title; and

13 (13) supervision and regulation of the organization and operation of
14 cloud service providers under chapter 15 of this title.

15 * * *

16 Sec. 4. 30 V.S.A. § 30(a)(2) is amended to read:

17 (2) A person who violates a provision of chapter 3 ~~or, 5, or 15~~ of this
18 title, except for the provisions of section 231 or 248 of this title, shall be
19 required to pay a civil penalty after notice and opportunity for hearing. If the
20 Commission determines that the violation substantially harmed or might have
21 substantially harmed the public health, safety, or welfare; the interests of utility

1 customers; the environment; the reliability of utility service; or the financial
2 stability of the company, the Commission may impose a civil penalty as
3 provided in subsection (b) of this section. If the Commission determines that
4 the violation did not cause or was not likely to cause such harm, the
5 Commission may impose a civil penalty of not more than \$42,500.00, in
6 addition to any financial benefit to the violator resulting from the violation.

7 Sec. 5. APPLICATION

8 Sec. 2 of this act (enacting 30 V.S.A. chapter 15) shall apply to all cloud
9 service providers doing business in Vermont on or after July 1, 2027.

10 Sec. 6. EFFECTIVE DATE

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