

H.677

Introduced by Representatives Burt of Cabot, Branagan of Georgia,
Dobrovich of Williamstown, Higley of Lowell, Labor of
Morgan, Laroche of Franklin, Morgan, L. of Milton, Nelson of
Derby, North of Ferrisburgh, O'Brien of Tunbridge, Page of
Newport City, Pritchard of Pawlet, and Tagliavia of Corinth

Referred to Committee on

Date:

Subject: Public service; energy; solar energy; primary agricultural soils

Statement of purpose of bill as introduced: This bill proposes to require that as
part of electric generation facility siting cases before the Public Utility
Commission, the Agency of Agriculture, Food and Markets be a required
party; require information on secondary and local importance agricultural soils;
and find that preclusion of farming on more than five acres will be an undue
burden.

An act relating to primary, secondary, and local importance agricultural
soils and solar energy generation

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

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

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

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

4 * * *

5 (4)(A) With respect to a facility located in the State, in response to a
6 request from one or more members of the public or a party, the Public Utility
7 Commission shall hold a nonevidentiary public hearing on a petition for such
8 finding and certificate. The public hearing shall either be remotely accessible
9 or held in at least one county in which any portion of the construction of the
10 facility is proposed to be located, or both. The Commission in its discretion
11 may hold a nonevidentiary public hearing in the absence of any request from a
12 member of the public or a party. From the comments made at a public hearing,
13 the Commission shall derive areas of inquiry that are relevant to the findings to
14 be made under this section and shall address each such area in its decision.
15 Prior to making findings, if the record does not contain evidence on such an
16 area, the Commission shall direct the parties to provide evidence on the area.
17 This subdivision (4) does not require the Commission to respond to each
18 individual comment.

19 * * *

20 (E) The Agency of Natural Resources and the Agency of Agriculture,
21 Food and Markets shall appear as ~~a party~~ parties in any proceedings held under

1 this subsection (a), shall provide evidence and recommendations concerning
2 any findings to be made under subdivision (b)(5) of this section, and may
3 provide evidence and recommendations concerning any other matters to be
4 determined by the Commission in such a proceeding.

5 (F) The following shall apply to the participation of the Agency of
6 Agriculture, Food and Markets in proceedings held under this subsection (a):

7 (i) In any proceeding regarding an electric generation facility that
8 will have a capacity greater than 500 kilowatts or an energy storage facility
9 that will have a capacity greater than 1 megawatt and will be sited on a tract
10 containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
11 Agency shall appear as a party and provide evidence and recommendations
12 concerning any findings to be made under subdivision (b)(5) of this section on
13 those soils and may provide evidence and recommendations concerning any
14 other matters to be determined by the Commission in such a proceeding.

15 (ii) In a proceeding other than one described in subdivision (i) of
16 this subdivision (4)(F), the Agency shall have the right to appear and
17 participate.

18 * * *

19 (J) This subdivision (J) applies to an application for an electric
20 generation facility with a capacity that is greater than 50 kilowatts and to an
21 application for an energy storage facility that is greater than 1 megawatt, unless

1 the facility is located on a new or existing structure the primary purpose of
2 which is not the generation of electricity. In addition to any other information
3 required by the Commission, the application for such a facility shall include
4 information that delineates:

5 (i) the full limits of physical disturbance due to the construction
6 and operation of the facility and related infrastructure, including areas
7 disturbed due to the creation or modification of access roads and utility lines
8 and the clearing or management of vegetation;

9 (ii) the presence and total acreage of primary, secondary, and local
10 importance agricultural soils as defined in 10 V.S.A. § 6001 and by the Natural
11 Resources Conservation Service on each tract to be physically disturbed in
12 connection with the construction and operation of the facility, the amount of
13 those soils to be disturbed, and any other proposed impacts to those soils;

14 (iii) all visible infrastructure associated with the facility; and

15 (iv) all impacts of the facility's construction and operation under
16 subdivision (b)(5) of this section, including impacts due to the creation or
17 modification of access roads and utility lines and the clearing or management
18 of vegetation.

19 * * *

1 (b) Before the Public Utility Commission issues a certificate of public good
2 as required under subsection (a) of this section, it shall find that the purchase,
3 investment, or construction:

4 * * *

5 (2)(A) Is required to meet the need for present and future demand for
6 service that could not otherwise be provided in a more cost-effective manner
7 through energy conservation programs and measures and energy-efficiency
8 and load management measures, including those developed pursuant to the
9 provisions of subsection 209(d), section 218c, and subsection 218(b) of this
10 title. In determining whether this criterion is met, the Commission shall assess
11 the environmental and economic costs of the purchase, investment, or
12 construction in the manner set out under subdivision 218c(a)(1) (least cost
13 integrated plan) of this title and, as to a generation facility, shall consider
14 whether the facility will avoid, reduce, or defer transmission or distribution
15 system investments.

16 (B) With respect to a solar energy generation facility, to meet this
17 criterion, a Vermont-licensed engineering firm approved by the Department of
18 Environmental Conservation shall perform a full-spectrum audit of energy
19 payback time and carbon dioxide emissions at the cost of the applicant. The
20 audit shall include a cradle-to-grave calculation, including resource extraction;
21 mining and procurement; production manufacturing and transportation;

1 deployment and disposal of all technologies required including solar panels
2 concrete, footings, transformers, batteries; forest ecosystem destruction;
3 foregoing 25 years of agricultural crops; and construction and landscaping of
4 the project.

5 * * *

6 (5) With respect to an in-state facility, will not have an undue adverse
7 effect on aesthetics, historic sites, air and water purity, the natural
8 environment, the use of natural resources, and the public health and safety,
9 with due consideration having been given to the criteria specified in 10 V.S.A.
10 §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary
11 agricultural soils, agricultural soils of statewide importance or local importance
12 as defined in 10 V.S.A. § 6001 and as designated by the Natural Resources
13 Conservation Service, and greenhouse gas impacts. The siting of a facility or
14 group of physically adjacent or interrelated facilities such that facility
15 structures and related infrastructure preclude the tilling of soil, seeding,
16 growing, or harvesting of agricultural crops on greater than five acres of
17 primary, statewide, or local importance agricultural soils, or reduce future
18 Vermont-based food security or will result in the destruction of forest
19 ecosystems, forest soils and their unique biology, or increased volatilization
20 and release of forest soil carbon on more than five acres shall be considered
21 undue and not in the public good.

- 1 * * *
- 2 Sec. 2. EFFECTIVE DATE
- 3 This act shall take effect on July 1, 2026.