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Title 30 : Public Service

Chapter 089 : Renewable Energy Programs

Subchapter 001 : GENERAL PROVISIONS

(Cite as: 30 V.S.A. § 8009)

§ 8009. Baseload renewable power portfolio requirement

(a) As used in this section:

(1) “Baseload renewable power” means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) “Baseload renewable power portfolio requirement” means the actual output of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) “Biomass” means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of subdivision 8002(21) of this title.

(4) [Repealed.]

(b) Notwithstanding subsection 8004(a) and subdivision 8005(c)(1) of this title, commencing November 1, 2012, each Vermont retail electricity provider shall purchase the provider’s pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, 2032 unless terminated earlier pursuant to subsection (k) of this section.

(c) A plant used to satisfy the baseload renewable power portfolio requirement shall be a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292.

(d) On or before November 1, 2027, the Commission shall determine, for the period

beginning on November 1, 2026 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, that, 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:

- (1) The relevant cost data of the Vermont composite electric utility system.
- (2) The terms of the potential contract, including the duration of the obligation.
- (3) The availability, during the system’s daily and seasonal peak periods, of capacity or energy from a proposed plant.
- (4) The relationship of the availability of energy, capacity, renewable energy credits and attributes, and other ISO New England revenue streams from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs. Vermont retail electricity providers shall receive all output of the baseload renewable plant unless the contract price is reduced to reflect the value of all products, attributes, and services that are retained by the seller.
- (5) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the proposed plant.
- (6) The supply and cost characteristics of the proposed plant, including the costs of operation and maintenance of an existing plant during the term of a proposed contract.
- (7) Mechanisms for encouraging dispatch of the plant relative to the ISO New England wholesale energy price and value of regional renewable energy credits while also respecting the physical operating parameters, the fixed costs of the proposed plant, and the impact on the forest economy.
- (8) The appropriate assignment of risks associated with the ISO New England Forward Capacity Market Pay for Performance program.

(e) In determining the price under subsection (d) of this section, the Commission:

- (1) may require a plant proposed to be used to satisfy the baseload renewable power portfolio requirement to produce such information as the Commission reasonably deems necessary;
- (2) shall not consider the following in the determination of avoided cost:
 - (A) capital investments made to meet the efficiency goal established in

subsection (k) of this section;

(B) revenue generated by the capital investment made to meet the efficiency goal established in subsection (k) of this section; and

(C) operational costs and operational impacts associated with the project or projects implemented to meet the efficiency goals established in subsection (k) of this section; and

(3) notwithstanding subdivision (2)(C) of this subsection, shall consider sharing with Vermont retail electricity providers the benefits associated with waste heat that may be used to benefit a facility that does not provide baseload renewable energy.

(f) With respect to a plant used to satisfy the baseload renewable power portfolio requirement:

(1) The Standard Offer Facilitator shall purchase the baseload renewable power and shall allocate the electricity purchased and any associated costs to the Vermont retail electricity providers based on their pro rata share of total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

(2) Any tradeable renewable energy credits and attributes that are attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection unless the Commission approves the plant owner retaining renewable energy credits and attributes or other ISO New England revenue streams. If the Commission approves the plant owner retaining renewable energy credits and attributes, or other ISO New England revenue streams, the price paid by the Vermont retail electricity providers pursuant to this section may be reduced by the Commission to reflect the value of those credits, attributes, products, or services.

(3) All capacity rights attributable to the plant capacity associated with the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(4) All reasonable costs of a Vermont retail electricity provider incurred under this section shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the Commission shall appropriately account for any credits received under subdivision (2) of this subsection. Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the Commission.

(g) A retail electricity provider shall be exempt from the requirements of this section if, and for so long as, one-third of the electricity supplied by the provider to its customers is

from a plant that produces electricity from woody biomass.

(h) The Commission may issue rules or orders to carry out this section.

(i) The State and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to the baseload renewable power portfolio requirement or a plant used to satisfy such requirement, including costs associated with a contract related to such a plant or any damages arising from the breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid. For the purpose of this section, the Commission and the Standard Offer Facilitator constitute instrumentalities of the State.

(j) The Commission shall authorize any Agency participating in a proceeding pursuant to this section or an order issued under this section to assess its costs against a proposed plant consistent with section 21 of this title.

(k) Collocation and efficiency requirements.

(1) The owner of the plant used to satisfy the baseload renewable power portfolio requirement shall cause the plant's overall efficiency to be increased by at least 50 percent relative to the 12-month period preceding July 1, 2022. In achieving this efficiency, the owner shall comply with the requirements of this subsection.

(2) On or before July 1, 2023, the owner of the plant shall submit to the Commission and the Department:

(A) A signed contract providing for the construction of a facility at the plant that utilizes the excess thermal heat generated at the plant for a beneficial purpose. As used in this subdivision (A), beneficial purpose may include the displacement of fossil fuel use for the sustainable production of a product or service or more efficient or less costly generation of electricity.

(B) A certification by a qualified professional engineer that the construction of the facility shall meet the requirement of subdivision (1) of this subsection (k).

(3) On or before October 1, 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 have been manufactured and that the construction plans for the facility have been completed.

(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, 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, 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, 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, 2026, and the Commission is not required to conduct the rate determination provided for in subsection (d) of this section.

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

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

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

(l) Annual report. Beginning on August 1, 2023, the owner of the plant used to satisfy the baseload renewable power portfolio shall report annually to the House Committee on Environment and Energy and Senate Committee on Finance, the Commissioner of Forests, Parks and Recreation, and the Secretary of Commerce and Community Development on the wood fuel purchases for the plant. The report shall include the average monthly price paid for the wood fuel and the source of the wood fuel, including location, number, types, and sources of non-forest-derived wood. (Added 2011, No. 47, § 11; amended 2011, No. 170 (Adj. Sess.), § 9; 2015, No. 56, § 26; 2021, No. 39, § 1, eff. May 20, 2021; 2021, No. 155 (Adj. Sess.), § 1, eff. May 31, 2022; 2023, No. 142 (Adj. Sess.), § 18, eff. May 30, 2024.)