This Draft Contains Revisions to the Bill as Introduced

Highlighted in Yellow

Newest Revisions as of 3/11/26 Highlighted in Grey, and TBD in Blue

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Energy and Digital Infrastructure to which was referred House Bill No. 727 entitled "An act relating to sustainable data center deployment" respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. chapter 5, subchapter 3 is added to read:

Subchapter 3. Data Centers

§ 281. SHORT TITLE

This subchapter shall be known and may be cited as the "Vermont Sustainable Data Centers Act."

§ 282. PURPOSE

The purpose of this subchapter is to establish a regulatory framework that ensures responsible growth of an ~~essential~~ **emerging** industry in a manner that protects existing electric ratepayers from unwarranted costs and promotes sustainable climate, environmental, community, and equity outcomes consistent with State ~~policy~~ **policies**.

§ 283. DEFINITIONS

As used in this subchapter:

(1) "Data center" means a facility that uses or is able to use 20 megawatts or more of power and is engaged in providing data processing, hosting, and related services as described under code 518210 of the 2022 North American Industry Classification System.

(2) "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person that controls, is controlled by, or is under common control with such person.

§ 284. ~~TARIFFS; CONTRACTS~~ **LARGE LOAD SERVICE EQUITY CONTRACT; APPROVAL**

(a) For the purpose of ensuring just and reasonable rates for all ratepayer classes and mitigating the risk of financial exposure to electric distribution companies and their existing ratepayers~~, the Public Utility Commission shall establish a separate ratepayer class and tariff schedule applicable to data centers and, in addition, shall require specific provisions in any contract for electric service entered into by an electric distribution company and a data center as specified in subsection (c) of this section~~ **a data center shall be served by an electric company pursuant to a large load service equity contract approved by the Public Utility Commission.**

(b) ~~The Commission shall develop a general tariff with standardized structures applicable to all electric distribution companies with respect to the data center ratepayer class, and these requirements shall be reflected in each company's individual tariff filings. The standardized structures shall~~ **The large load service equity contract shall**:

(1) Include a method for allocating costs that is equal or proportional to the costs of providing electric service to ~~data centers~~ **the data center**, **including providing for**

~~(2) provide for~~ equitable contributions to the **embedded costs and the** efficiency, reliability, and resiliency of the electricity network.

(2) Mitigate the risk of other ratepayer classes paying unwarranted costs, including any electric generation, distribution, and transmission infrastructure costs incurred ~~solely~~ to meet the load requirements of a data center **or the energy capacity, transmission, or resource adequacy costs incurred as a result of the data center's load**.

~~(3) promote or, at a minimum, not impede in any way an electric company's ability to meet renewable electricity targets pursuant to the Renewable Energy Standard;~~

~~(4) reflect the mandatory contractual provisions specified in subsection (c) of this section; and~~

~~(5) meet any other conditions the Commission may require consistent with the purpose of this section and in the public interest.~~

~~(c) A contract for electric service entered into between an electric company and a data center shall:~~

(3) Specify the duration of the contract~~, which shall not be less than 10 years:~~

~~(2) specify~~ **and** the date or the estimated date that the electric company will begin to provide electric service to the data center.

(4) Obligate the data center to pay a minimum amount or percentage based on the data center's projected electricity usage for the duration of the contract **to ensure compliance with subdivision (b)(1) of this section**.

(5) Include a reasonable charge for ~~excess~~ demand **in excess of the data center's projected electricity demand at the time the contract is entered into, which shall be calculated by kilowatt-hour**.

(6) Include a collateral requirement sufficient to mitigate the risk of stranded costs. **[TBD – and a decommissioning plan to manage the environmental impact and removal of equipment in the event any facilities become inactive.]**

(7) Include provisions requiring implementation of demand-side management operational measures~~, including harnessing load flexibility~~ for the purpose of maintaining grid stability and efficiency, including

demand response and flexible load management practices, such as load shifting, peak shaving, and the use of distributed energy resources.

(8) Include provisions for the collection of gross receipts taxes, energy efficiency charges, and any other fees or charges that may be applicable to electricity revenues.

(9) Meet any other terms or conditions required by the Commission that are consistent with the purpose of this section and in the public interest.

~~§ 285. SITING; CERTIFICATE OF PUBLIC GOOD~~

(c) ~~No person shall in any way begin site preparation for or commence construction of a data center~~ **The Commission shall not approve a large load service equity contract** unless the Commission first finds that the same will promote the general good of the State ~~and issues a certificate of public good to that effect pursuant to this section~~.

(d) Before the Commission ~~issues a certificate of public good~~ **approves a large load service equity contract** as required under ~~subsection (c) of~~ this section, the Commission shall find that the proposed data center, including any upgrades to electric generation, distribution, and transmission facilities necessary to power the data center:

(1) ~~will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the~~

~~municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality;~~

~~(2)~~ will not adversely affect the efficiency, reliability, and resilience of the electric power system;

(2) will result in an economic benefit to the State and its residents;

(3) will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) (outstanding resource waters) and 6086(a)(1)–(8) and (9)(K) (conditions and criteria for State land use and development plans), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, community noise levels, and the attainment of the State's greenhouse gas emissions reduction requirements;

(4) is consistent with the principles for resource selection expressed in the applicable electric distribution company's approved least-cost integrated plan;

(5) is consistent with the Electrical Energy Plan approved by the Department under section 202 of this title, or that there exists good cause to permit a variance;

~~(7) is consistent with the Vermont Long-Range Transmission Plan prepared by the Vermont Electric Power Company, Inc.;~~

(6) will not have an adverse effect on any segment of the waters of the State that have been designated as outstanding resource waters by the Secretary of Natural Resources;

(7) can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or other retail ratepayer classes;

(8) complies with applicable air pollution control requirements under the federal Clean Air Act, 42 U.S.C. § 7401 et seq. **that were in effect on January 1, 2026, except to the extent such requirements are inconsistent with any other applicable State law or rule**;

(9) complies with harvesting procedures and procurement standards that ensure long-term forest health and sustainability, including the guidelines and standards adopted under 10 V.S.A. § 2750;

(10) is consistent with State energy efficiency requirements, **including commercial building energy standards**;

(11) is consistent with environmental justice and equity policy as established pursuant to 3 V.S.A. chapter 72; and

(12) adequately accounts for potential facility decommissioning.

(e) No data center shall be eligible to participate in an energy savings account or a customer credit program pursuant to subdivision

209(d)(3)(C) of this title, or a self-managed energy efficiency program pursuant to subsection 209(j) of this title.

(f) This section shall not be construed to limit or infringe upon the right of a data center to petition the Public Utility Commission for a certificate of good to own and operate its own public service company pursuant to section 231(a) of this title, and subject to limited regulation appropriate to its function.

~~(c) The Commission shall adopt by rule procedures for implementing the requirements of this section that are modeled after sections 248 and 248a of this title, to the extent deemed reasonable and necessary by the Commission. Accordingly, the procedures shall include requirements related to: an application fee; notice; letter of intent; review period; exemptions from other law; participation by municipal bodies; consideration of municipal plans and recommendations; the retention of experts; fees for the participation of other State entities, as appropriate, including the Department of Public Service, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Commerce and Community Development, and the Environmental Justice Advisory Council; and a review process.~~

~~§ 286. DEMAND SIDE MANAGEMENT~~

~~(a) The Commission may establish a demand-side management program applicable to data centers that includes requirements and standards applicable~~

~~to data center energy and water usage. In developing such a program, the Commission shall consider:~~

~~(1) cositing requirements for renewable energy sources, batteries, and other on-site generation and storage;~~

~~(2) water conservation initiatives, such as the use of recycled water for cooling;~~

~~(3) the establishment of data center microgrids for critical services that would provide continuous and reliable energy for critical services, operate independently from an electric company's power system, ensure uptime during outages, provide greater efficiencies for managing energy costs and carbon emissions, and enhance the resilience of the State's electricity network;~~

~~(4) authorization for a data center to procure its own energy resources;~~

~~(5) a prohibition on fossil fuel power purchase agreements that provide incentives or discount rates to data centers;~~

~~(6) enhanced energy efficiency standards; and~~

~~(7) any other standard or requirement deemed appropriate by the Commission and consistent with the purpose of this subchapter and in the public interest.~~

~~(b) Any program developed by the Commission pursuant to this section shall take effect upon approval of the General Assembly by legislative enactment.~~

§ 285. ENERGY EFFICIENCY DESIGN

Early in the design development phase of a data center, the owner or operator of a data center shall consult with ~~Efficiency Vermont~~ the efficiency utility appointed by the Public Utility Commission under subdivision 209(d)(2)(A) of this title to ensure compliance with State energy efficiency requirements and best practices.

§ 286. WATER USE; COOLING; PERMITTING; QUALITY

(a) As used in this section:

(1) "Closed-loop cooling system" means a sealed cooling process in which the same water or coolant circulates continuously within a data center's cooling system without withdrawal of water from municipal public water supplies, groundwater, or surface water and without discharge of wastewater to municipal wastewater systems, groundwater, or surface waters, except for de minimis discharges authorized under a discharge permit issued by the Agency of Natural Resources.

(2) "Per- and polyfluoroalkyl substances" or "PFAS" means any chemical substance or mixture containing a chemical substance that structurally contains at least one of the following three sub-structures:

(A) R-(CF2)-CF(R′)R″, where both the CF2 and CF moieties are saturated carbons;

(B) R-CF2OCF2-R′, where R and R′ can either be F, O, or saturated carbons; or

(C) CF3C(CF3)R′R″, where R′ and R″ can either be F or saturated carbons.

(b)(1) A person applying to operate a data center in the State shall identify to the Commission and to the District Commission reviewing the data center's application for a permit under 10 V.S.A. chapter 151 how the data center will cool the facility.

(2) If water is used to cool a data center, the data center shall use a closed-loop cooling system to minimize impacts to the quality and quantity of surface water and groundwater unless a District Commission, during review of a permit application under 10 V.S.A. chapter 151, determines that the use of a closed-loop cooling system is not feasible at the proposed data center.

(3) If water is used to cool a data center through a closed-loop cooling system or through another type of cooling system, a person applying to operate the data center in the State shall propose how the data center will obtain water to cool the facility and where the cooling water will be discharged.

(c) If a person applying to operate a data center proposes to use groundwater to cool the data center, the data center shall obtain a

groundwater withdrawal permit under 10 V.S.A. § 1418 for any withdrawal of groundwater by the data center notwithstanding the permitting threshold of withdrawal of more than 57,600 gallons of groundwater a day. A closed-loop cooling system is not exempt from the groundwater withdrawal permit under 10 V.S.A. § 1418(b)(6).

(d) If a person applying to operate a data center proposes to use surface water to cool the facility, an applicant shall obtain a surface water withdrawal permit pursuant to 10 V.S.A. § 1043. The rules adopted by the Secretary to implement 10 V.S.A. § 1043 shall require that data centers cease withdrawals under drought conditions.

(e)(1) A person applying to operate a data center shall obtain all applicable water quality permits from the Agency of Natural Resources, including stormwater, shoreland, stream alteration, direct discharge, and river corridor development permits.

(2) A person applying to operate a data center shall obtain from the Agency of Natural Resources a water quality certificate from the Agency that meets the same criteria that the Agency requires to be met to obtain a federal Clean Water Act Section 401 water quality certification.

(f) A person applying to operate a data center who intends to discharge wastewater into a surface water of the State shall submit a plan to the

Agency of Natural Resources establishing a program that monitors the discharge for the presence of PFAS.

§ 287. QUARTERLY AND ANNUAL REPORTS

(a) Data center. Within three months after a data center becomes operational, and in a form and manner determined by the Commission, the ~~owner~~ **or operator** ~~of the~~ data center shall begin submitting quarterly reports to the Commission and the Department of Public Service. Each quarterly report shall include the data center's water and energy usage**, including its peak usage per day,** ~~as well as a description of any interconnection requests the owner has submitted in other states~~ **and an itemization of the data center's payments toward shared infrastructure constructed to support the data center**.

(b) Department. Annually, beginning on or before January **15**, 2028, **and provided at least one data center has entered into a large load large service equity contract pursuant to this subchapter,** the Commissioner of Public Service shall ~~submit a written report on data centers to the House Committees on Energy and Digital Infrastructure, on Environment, and on Agriculture, Food Resiliency, and Forestry and to the Senate Committees on Finance, on Natural Resources and Energy, and on Agriculture. The report shall include findings and recommendations related to the energy, environmental, and economic impacts of data center construction and~~

~~deployment in Vermont, including any benefits to all electric ratepayers from electric infrastructure projects undertaken to provide power to a data center~~ **include in the Department's annual report published pursuant to subsection 202b(e) of this title findings and recommendations related to the energy, environmental, and economic impacts of data center construction and operation in Vermont, as well as any impactful developments within the region, including any benefits to all ratepayers from electric infrastructure projects undertaken to provide power to one or more data centers**.

~~§ 288. FINANCING STATE AND LOCAL BENEFITS~~

~~(a) It is the intent of the General Assembly to establish a financial structure that will support State and local energy, environmental, and economic benefits and to finance that structure with:~~

~~(1) a percentage of tax revenue generated from sales, property, or income taxes applicable to data centers;~~

~~(2) a data center gross receipts tax; or~~

~~(3) another financing mechanism recommended by the Commissioner of Public Service that the Commissioner deems to be consistent with the purpose of this subchapter and in the public interest.~~

~~(b) The Commissioner of Public Service, with input from the Commissioner of Taxes, shall develop findings and recommendations for~~

~~implementing the legislative intent of this section, which shall be submitted in a written report to the House Committees on Energy and Digital Infrastructure, on Environment, on Ways and Means, and on Agriculture, Food Resiliency, and Forestry and to the Senate Committees on Finance, on Natural Resources and Energy, and on Agriculture, on or before January 1, 2028.~~

§ 288. RULES

In addition to the rules required by this subchapter, the Commission may adopt any other rules it deems necessary to implement and enforce the provisions of this subchapter consistent with its purpose and in the public interest.

Sec. 2. 10 V.S.A. § 6001(3)(A)(xiv) is added to read:

(xiv) The construction of improvements on a tract or tracts of land for a data center as defined in 30 V.S.A. § 283(1).

Sec. 3. APPLICATION

30 V.S.A. chapter 5, subchapter 3 (established in Sec. 1 of this act) shall apply to any data center not operational on ~~or before~~ the effective date of this act **and to any smaller, traditional data center operational on the effective date of this act to the extent such data center seeks to expand its capacity and meet the threshold requirements of Sec. 1, 30 V.S.A. § 283(1).**

[Suggestion from Chair Sheldon for committee consideration]

Sec. 4. REPORT ON REGIONAL RENEWABLE ENERGY MARKET

CONDITIONS; PUBLIC UTILITY COMMISSION

(a) On or before ~~December 15, 2026~~ January 15, 2027, the Public Utility Commission shall prepare a written report on projected regional renewable electric generation market conditions. In developing the report, the Commission shall examine the cost and availability of new regional renewable electric generation resources during the years 2027 through 2035. ~~, including with regard to:~~

~~(1) changes in federal tax law, tax incentives, or tax credit availability;~~

~~(2) changes in federal permitting requirements or processes;~~

~~(3) federal trade policy, including tariffs or import restrictions affecting energy equipment or components;~~

~~(4) federal energy, environmental, or land-use policies;~~

~~(5) supply chain constraints;~~

~~(6) interconnection timelines and regional transmission development; and~~

~~(7) any other matters deemed relevant by the Commission.~~

(b) In preparing the report, the Commission shall provide an opportunity for written input from interested stakeholders, including retail electricity providers, renewable energy developers, regional transmission organizations, consumer advocates, and any other members

of the public. In addition, the Commission may consult with the Department of Public Service and other relevant state, regional, or federal entities, as the Commission deems appropriate. Preparation of the report is not subject to the contested case procedures established under 3 V.S.A. chapter 25.

(c) The Commission shall submit the report to the House Committee on Energy and Digital Infrastructure and the Senate Committees on Finance and on Natural Resources and Energy.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: _____)

_____

Representative _____

FOR THE COMMITTEE