

H.727

Introduced by Representative Sibia of Dover

Referred to Committee on

Date:

Subject: Utilities; data centers; ratepayer class; siting; reporting

Statement of purpose of bill as introduced: This bill proposes to regulate the deployment of data centers in Vermont for the purpose of ensuring electric service reliability and affordability for all Vermonters and preventing any adverse effects on the State's environment, natural resources, local communities, economy, and public health and welfare.

An act relating to sustainable data center deployment

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

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 industry in a manner that protects

1 existing electric ratepayers from unwarranted costs and promotes sustainable
2 climate, environmental, community, and equity outcomes consistent with State
3 policy.

4 § 283. DEFINITIONS

5 As used in this subchapter:

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

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

14 § 284. TARIFFS; CONTRACTS

15 (a) For the purpose of ensuring just and reasonable rates for all ratepayer
16 classes and mitigating the risk of financial exposure to electric distribution
17 companies and their existing ratepayers, the Public Utility Commission shall
18 establish a separate ratepayer class and tariff schedule applicable to data
19 centers and, in addition, shall require specific provisions in any contract for
20 electric service entered into by an electric distribution company and a data
21 center as specified in subsection (c) of this section.

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

5 **(1) include a method for allocating costs that is equal or proportional to**
6 **the costs of providing electric service to data centers;**

7 **(2) provide for equitable contributions to the efficiency, reliability, and**
8 **resiliency of the electricity network;**

9 **(3) mitigate the risk of other ratepayer classes paying unwarranted costs,**
10 **including any electric generation, distribution, and transmission infrastructure**
11 **costs incurred solely to meet the load requirements of a data center;**

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

15 **(5) reflect the mandatory contractual provisions specified in subsection**
16 **(c) of this section; and**

17 **(6) meet any other conditions the Commission may require consistent**
18 **with the purpose of this section and in the public interest.**

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

1 (1) specify the duration of the contract, which shall not be less than 10
2 years;

3 (2) specify the date or the estimated date that the electric company will
4 begin to provide electric service to the data center;

5 (3) obligate the data center to pay a minimum amount or percentage
6 based on the data center's projected electricity usage for the duration of the
7 contract;

8 (4) include a reasonable charge for excess demand;

9 (5) include a collateral requirement sufficient to mitigate the risk of
10 stranded costs; and

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

13 § 285. SITING; CERTIFICATE OF PUBLIC GOOD

14 (a) No person shall in any way begin site preparation for or commence
15 construction of a data center unless the Commission first finds that the same
16 will promote the general good of the State and issues a certificate of public
17 good to that effect pursuant to this section.

18 (b) Before the Commission issues a certificate of public good as required
19 under subsection (a) of this section, the Commission shall find that the
20 proposed data center, including any upgrades to electric generation,
21 distribution, and transmission facilities necessary to power the data center;

1 (1) will not unduly interfere with the orderly development of the region
2 with due consideration having been given to the recommendations of the
3 municipal and regional planning commissions, the recommendations of the
4 municipal legislative bodies, and the land conservation measures contained in
5 the plan of any affected municipality;

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

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

9 (4) will not have an undue adverse effect on aesthetics, historic sites, air
10 and water purity, the natural environment, the use of natural resources, and the
11 public health and safety, with due consideration having been given to the
12 criteria specified in 10 V.S.A. §§ 1424a(d) (outstanding resource waters) and
13 6086(a)(1)–(8) and (9)(K) (conditions and criteria for State land use and
14 development plans), impacts to primary agricultural soils as defined in
15 10 V.S.A. § 6001, community noise levels, and the attainment of the State’s
16 greenhouse gas emissions reduction requirements;

17 (5) is consistent with the principles for resource selection expressed in
18 the applicable electric distribution company’s approved least-cost integrated
19 plan;

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

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

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

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

12 (10) complies with applicable air pollution control requirements under
13 the federal Clean Air Act, 42 U.S.C. § 7401 et seq.;

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

17 (12) is consistent with State energy efficiency requirements;

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

20 (14) adequately accounts for potential facility decommissioning.

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

12 § 286. DEMAND-SIDE MANAGEMENT

13 (a) The Commission may establish a demand-side management program
14 applicable to data centers that includes requirements and standards applicable
15 to data center energy and water usage. In developing such a program, the
16 Commission shall consider:

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

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

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

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

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

9 (6) enhanced energy efficiency standards; and

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

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

16 § 287. QUARTERLY AND ANNUAL REPORTS

17 (a) Data center. Within three months after a data center becomes
18 operational, and in a form and manner determined by the Commission, the
19 owner of the data center shall begin submitting quarterly reports to the
20 Commission and the Department of Public Service. Each quarterly report shall

1 include the data center's water and energy usage, as well as a description of
2 any interconnection requests the owner has submitted in other states.

3 (b) Department. Annually, beginning on or before January 1, 2028, the
4 Commissioner of Public Service shall submit a written report on data centers to
5 the House Committees on Energy and Digital Infrastructure, on Environment,
6 and on Agriculture, Food Resiliency, and Forestry and to the Senate
7 Committees on Finance, on Natural Resources and Energy, and on Agriculture.
8 The report shall include findings and recommendations related to the energy,
9 environmental, and economic impacts of data center construction and
10 deployment in Vermont, including any benefits to all electric ratepayers from
11 electric infrastructure projects undertaken to provide power to a data center.

12 § 288. FINANCING STATE AND LOCAL BENEFITS

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

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

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

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

1 (b) The Commissioner of Public Service, with input from the
2 Commissioner of Taxes, shall develop findings and recommendations for
3 implementing the legislative intent of this section, which shall be submitted in
4 a written report to the House Committees on Energy and Digital Infrastructure,
5 on Environment, on Ways and Means, and on Agriculture, Food Resiliency,
6 and Forestry and to the Senate Committees on Finance, on Natural Resources
7 and Energy, and on Agriculture, on or before January 1, 2028.

8 § 289. RULES

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

13 Sec. 2. APPLICATION

14 30 V.S.A. chapter 5, subchapter 3 (established in Sec. 1 of this act) shall
15 apply to any data center not operational on or before the effective date of this
16 act.

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on passage.