

1

H.727

2

Introduced by Representative Sibilila of Dover

3

Referred to Committee on

4

Date:

5

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

6

Statement of purpose of bill as introduced: This bill proposes to regulate the

7

deployment of data centers in Vermont for the purpose of ensuring electric

8

service reliability, resiliency and affordability for all Vermonters, ~~and~~

9

preventing any adverse effects on the State's environment, natural resources,

10

local communities, economy, and public health and welfare, and harnessing

11

any benefits that could accrue from large electric loads locating in Vermont. -

12

An act relating to sustainable data center deployment

13

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

14

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

15

Subchapter 3. Data Centers

16

§ 281. SHORT TITLE

17

This subchapter shall be known and may be cited as the "Vermont

18

Sustainable Data Centers Act."

19

§ 282. PURPOSE

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

6 § 283. DEFINITIONS

7 As used in this subchapter:

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

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

16 § 284. TARIFFS; CONTRACTS

17 (a) For the purpose of ensuring just and reasonable rates for all ratepayer
18 classes and mitigating the risk of financial exposure to electric distribution
19 companies and their existing ratepayers, ~~any data center shall be served by a~~
20 ~~Large Load Service Equity contract. the Public Utility Commission shall~~
21 ~~establish a separate ratepayer class and tariff schedule applicable to data~~

1 ~~centers and, in addition, shall require specific provisions in any contract for~~
2 ~~electric service entered into by an electric distribution company and a data~~
3 ~~center as specified in subsection (c) of this section.~~

4 ~~(b) The Commission shall develop a general tariff with standardized~~
5 ~~structures applicable to all electric distribution companies with respect to the~~
6 ~~data center ratepayer class, and these requirements shall be reflected in each~~
7 ~~company's individual tariff filings.~~ The Large Load Service Equity contract |
8 ~~The standardized structures shall:~~

9 (1) include a method for allocating costs that is equal or proportional to
10 the costs of providing electric service to data centers, including :

11 ~~(2) providing~~ for equitable contributions to the embedded costs and the
12 efficiency, reliability, and resiliency of the electricity network;

13 ~~(3) mitigate the risk of other ratepayer classes paying unwarranted~~
14 costs, including any electric generation, distribution, and transmission

15 infrastructure costs incurred solely to meet the load requirements of a data
16 center, or energy, capacity, transmission, or resource adequacy costs incurred
17 as a result of the addition of the data center's load;

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

Commented [A1]: I've combined (b) and (c) here

Commented [A2]: It's possible that all of these costs could be incurred to meet the utility's overall load, with some reasonable portion allocated specifically to the data center.

Commented [A3]: Intended to get to regional risks - resource adequacy, impacts to energy or capacity prices, etc.

1 ~~(5) reflect the mandatory contractual provisions specified in subsection~~
2 ~~(e) of this section; and~~

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

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

7 ~~(14) specify the duration of the contract, which shall not be less than 10~~
8 ~~years and ;~~

9 ~~(2) specify the date or the estimated date that the electric company will~~
10 ~~begin to provide electric service to the data center;~~

11 ~~(53) obligate the data center to pay a minimum amount or percentage~~
12 ~~based on the data center's projected electricity usage for the duration of the~~
13 ~~contract that will ensure (b)(1) of this subsection is met;~~

14 ~~(64) include a reasonable charge for excess demand in excess of the data~~
15 ~~center's projected electricity demand at the time of the contract;~~

16 ~~(75) include a collateral requirement sufficient to mitigate the risk of~~
17 ~~stranded costs; and~~

18
19 ~~(86) includes provisions for requiring provision of implementation of~~
20 ~~complementary demand side management operational measures, including~~

Commented [A4]: Timing could be flexible as long as it allows for recovering of all costs.

1 harnessing load flexibility, as well as the collection of gross receipts taxes, and
2 any other fees or charges that may be applicable to electricity revenues.

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

5 (c)

Formatted: Indent: First line: 0"

6 § 285. SITING; CERTIFICATE OF PUBLIC GOOD

7 (a)The Commission shall not approve a Large Load Service Equity contract
8 No person shall in any way begin site preparation for or commence
9 construction of a data center unless the Commission first finds that the same
10 will promote the general good of the State. and issues a certificate of public
11 good to that effect pursuant to this section.

12 (db) Before the Commission issues a certificate of public good approves a
13 Large Load Service Equity contract as required under subsection (ca) of this
14 section, the Commission shall find that the proposed data center, including any
15 upgrades to electric generation, distribution, and transmission facilities
16 necessary to power the data center:

17 (1) will not unduly interfere with the orderly development of the region
18 with due consideration having been given to the recommendations of the
19 municipal and regional planning commissions, the recommendations of the
20 municipal legislative bodies, and the land conservation measures contained in
21 the plan of any affected municipality.

Formatted: Indent: First line: 0.2"

Commented [A5]: Since LURB would be conducting the siting process, it doesn't make sense for an additional VT agency to weigh in on traditional land use matters.

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

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

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

12 ~~(5) is consistent with the principles for resource selection expressed in~~
13 ~~the applicable electric distribution company's approved least cost integrated~~
14 ~~plan;~~

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

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

Commented [A6]: Deleted the former here. Former #5 is largely waived for any project that isn't a utility owned project (i.e. merchant projects), because that entity doesn't have/do an IRP. Any part of the decision making framework seems to be covered elsewhere in this legislation. Former #6: Could take out also - but I could see an extreme scenario where it *might* be useful (for example, if they brought their own generation and it was coal).

Commented [A7]: It's not clear to me what consistency with the LRP would look like. Also, there are some areas of VT where a data center could interconnect with an Eversource transmission line.

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

Commented [A8]: Delted provision on served by existing facilities, as covered above

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

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

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

12 ~~(12) is consistent with State energy efficiency requirements; and~~

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

Commented [A9]: Deleted DSM section. The DSM section includes non-DSM items and needs approval by the Legislature anyway, so it doesn't really add much here.

15 ~~(14) adequately accounts for potential facility decommissioning;~~

16 ~~(e) The Commission shall adopt by rule procedures for implementing the~~
17 ~~requirements of this section that are modeled after sections 248 and 248a of~~
18 ~~this title, to the extent deemed reasonable and necessary by the Commission;~~

19 ~~Accordingly, the procedures shall include requirements related to: an~~
20 ~~application fee; notice; letter of intent; review period; exemptions from other~~
21 ~~law; participation by municipal bodies; consideration of municipal plans and~~

1 ~~recommendations; the retention of experts; fees for the participation of other~~
2 ~~State entities, as appropriate, including the Department of Public Service, the~~
3 ~~Agency of Natural Resources, the Agency of Agriculture, Food and Markets,~~
4 ~~the Agency of Commerce and Community Development, and the~~
5 ~~Environmental Justice Advisory Council; and a review process.~~

6 ~~§ 286. DEMAND SIDE MANAGEMENT~~

7 ~~(a) The Commission may establish a demand side management program~~
8 ~~applicable to data centers that includes requirements and standards applicable~~
9 ~~to data center energy and water usage. In developing such a program, the~~
10 ~~Commission shall consider:~~

11 ~~(1) co-siting requirements for renewable energy sources, batteries, and~~
12 ~~other on-site generation and storage;~~

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

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

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

1 ~~(5) a prohibition on fossil fuel power purchase agreements that provide~~
2 ~~incentives or discount rates to data centers;~~
3 ~~(6) enhanced energy efficiency standards; and~~
4 ~~(7) any other standard or requirement deemed appropriate by the~~
5 ~~Commission and consistent with the purpose of this subchapter and in the~~
6 ~~public interest.~~

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

10 § 2857. QUARTERLY AND ANNUAL REPORTS

11 (a) Data center. Within three months after a data center becomes
12 operational, and in a form and manner determined by the Commission, the
13 owner of the data center shall begin submitting quarterly reports to the
14 Commission and the Department of Public Service. Each quarterly report shall
15 include the data center's water and energy usage, ~~as well as a description of~~
16 ~~any interconnection requests the owner has submitted in other states and~~
17 ~~information related to the data center's payments toward shared infrastructure~~
18 ~~that was constructed to support the data center.~~

19 (b) Department. Annually, beginning on or before January 30~~4~~, 2028, if
20 ~~any data centers have entered into a Large Load Service Equity contract, the~~
21 Commissioner of Public Service shall include in its Annual Energy Report

1 ~~published pursuant to 30 V.S.A. §202b(e), information submit a section written~~
2 ~~report on data centers, to the House Committees on Energy and Digital~~
3 ~~Infrastructure, and on Environment, and on Agriculture, Food Resiliency, and~~
4 ~~Forestry and to the Senate Committees on Finance, on and Natural Resources~~
5 ~~and Energy, and on Agriculture. The data center section of the report shall~~
6 ~~include findings and recommendations related to the energy, environmental,~~
7 ~~and economic impacts of data center construction and operation deployment in~~
8 ~~Vermont, as well as impactful developments within the region, including any~~
9 ~~benefits to all electric ratepayers from electric infrastructure projects~~
10 ~~undertaken to provide power to a data center.~~

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

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

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

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

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

Commented [A10]: Requirements for public policy equity including RES, efficiency, and GRT are addressed above.

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.~~