

Sec. 10. 30 V.S.A.
§ 248 is amended to read:

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

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

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

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(E) The Agency of Natural Resources ~~and the Agency of Agriculture, Food and Markets~~ shall appear as a party ~~parties~~ in any proceedings held under this subsection (a), shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Commission in such a proceeding.

(F) The following shall apply to the participation of the Agency of Agriculture, Food and

Markets in proceedings held under this subsection (a):

- (i) In any proceeding regarding an electric generation facility that will have a capacity greater than 500 kilowatts or an energy storage facility that will have a capacity greater than 1 megawatt and will be sited on a tract containing primary agricultural soils as defined in 10 V.S.A. § 6001, the Agency shall appear as a party and provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section on those soils and may provide evidence and recommendations concerning any other matters to be determined by the Commission in such a proceeding.
- (ii) In a proceeding other than one described in subdivision (i) of this subdivision (4)(F), the Agency shall have the right to appear and participate.

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(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts and to an application for an energy storage facility that is greater than 1 megawatt, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Commission, the application for such a facility shall include information that delineates:

- (i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;
- (ii) the presence and total acreage of primary, ~~secondary, and local importance~~ agricultural soils as defined in 10 V.S.A. § 6001 ~~and by the Natural Resources Conservation Service~~ on each tract to be physically disturbed in connection with the construction and

operation of the facility, the amount of those soils to be disturbed, and any other proposed impacts to those soils;

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

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

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

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

(B) With respect to renewable energy generation facilities, to meet this criterion, a Vermont-licensed engineering firm approved by the Department of Environmental Conservation shall perform a full-spectrum audit of energy payback time and greenhouse gas emissions at the cost of the applicant. The audit shall apply to an electric generation facility that will have a capacity greater than 500 kilowatts and shall include a cradle-to-grave calculation, including resource extraction; mining and procurement; production manufacturing, and transportation; deployment and disposal of all

technologies required, including solar panels, concrete, footings, transformers, and batteries; forest ecosystem destruction; foregoing 25 years of agricultural crops; carbon volatilization due to disruption of forest and agricultural soils; and construction and landscaping of the project.

~~(B) With respect to a solar energy generation facility, to meet this criterion, a Vermont-licensed engineering firm approved by the Department of Environmental Conservation shall perform a full-spectrum audit of energy payback time and carbon dioxide emissions at the cost of the applicant. The audit shall include a cradle-to-grave calculation, including resource extraction; mining and procurement; production manufacturing and transportation; deployment and disposal of all technologies required, including solar panels concrete, footings, transformers, and batteries; forest ecosystem destruction; foregoing 25 years of agricultural crops; and construction and landscaping of the project.~~

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(5) With respect to an in-state facility, will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, forest resources and ecosystems, primary agricultural soils as defined by 10 V.S.A §6001, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils and greenhouse gas impacts. The siting of a facility or group of physically adjacent or interrelated facilities such that facility structures and related infrastructure preclude the tilling of soil, seeding, growing, or harvesting agricultural crops on primary agricultural soils as defined by 10 V.S.A §6001, or reduce future Vermont-based food security, or will be reasonably likely to result in the degradation of forest ecosystems, forest soils and their unique biology, or increased volatilization and release of forest soil or primary agricultural soil carbon shall be considered undue and not in the public good of Vermont.

~~(5) With respect to an in-state facility, 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) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils, agricultural soils of statewide importance or local importance as defined in 10 V.S.A. § 6001 and as designated by the Natural Resources Conservation Service, and greenhouse gas impacts. The siting of a facility or group of physically adjacent or interrelated facilities such that facility structures and related infrastructure preclude the tilling of soil, seeding, growing, or harvesting of agricultural crops on greater than five acres of primary, statewide, or local importance agricultural soils, or reduce future Vermont-based food security or will result in the destruction of forest ecosystems, forest soils and their unique biology, or increased volatilization and release of forest soil carbon on more than five acres shall be considered undue and not in the public good.~~