

1 S.156

2 Introduced by Senator Starr

3 Referred to Committee on

4 Date:

5 Subject: Energy; public service; cost-effectiveness; environmental costs

6 Statement of purpose: This bill proposes to ensure that cost-effectiveness  
7 determinations for electric and natural gas energy planning and permitting  
8 include full analysis of all environmental costs and an evaluation of the  
9 cost-effectiveness of options that are asserted to reduce greenhouse gas  
10 emissions in comparison to other options to reduce such emissions. The bill  
11 also proposes to add two additional members to the public service board, with  
12 relevant environmental expertise, to sit on appeals to the board from decisions  
13 of the secretary of natural resources on renewable energy and  
14 telecommunications facilities.

15 An act relating to energy, environmental costs, and appeals to the public  
16 service board

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

1 Sec. 1. 30 V.S.A. § 218c is amended to read:

2 § 218c. LEAST COST INTEGRATED PLANNING

3 (a)(1) A “least cost integrated plan” for a regulated electric or gas utility is  
4 a plan for meeting the public’s need for energy services, after safety concerns  
5 are addressed, at the lowest present value life cycle cost, including  
6 environmental and economic costs, through a strategy combining investments  
7 and expenditures on energy supply, transmission and distribution capacity,  
8 transmission and distribution efficiency, and comprehensive energy efficiency  
9 programs.

10 (A) Economic costs shall be determined with due regard to, and in  
11 the case of subdivision (iv) of this subdivision (A) shall include:

12 ~~(A)~~(i) the greenhouse gas inventory developed under the  
13 provisions of 10 V.S.A. § 582;

14 ~~(B)~~(ii) the state’s progress in meeting its greenhouse gas reduction  
15 goals; ~~and~~

16 ~~(C)~~(iii) the value of the financial risks associated with greenhouse  
17 gas emissions from various power sources; and

18 (iv) the cost-effectiveness of any investment or expenditure that  
19 will reduce greenhouse gas emissions, in comparison to other investments and  
20 expenditures that could achieve the same or similar reductions, in dollars per  
21 ton of avoided greenhouse gases.

1                   (B) Environmental costs shall be determined by monetizing the  
2                   impacts on all environmental media and natural resources, including impacts  
3                   on air quality, aesthetics, endangered and threatened species, natural areas,  
4                   water quality, waste creation and disposal, wetlands, and wildlife and wildlife  
5                   habitat.

6                   (2) “Comprehensive energy efficiency programs” shall mean a  
7                   coordinated set of investments or program expenditures made by a regulated  
8                   electric or gas utility or other entity as approved by the board pursuant to  
9                   subsection 209(d) of this title to meet the public’s need for energy services  
10                   through efficiency, conservation or load management in all customer classes  
11                   and areas of opportunity which is designed to acquire the full amount of cost  
12                   effective savings from such investments or programs.

13                   (b) Each regulated electric or gas company shall prepare and implement a  
14                   least cost integrated plan for the provision of energy services to its Vermont  
15                   customers. Proposed plans shall be submitted to the department of public  
16                   service and the public service board. The board, after notice and opportunity  
17                   for hearing, may approve a company’s least cost integrated plan if it  
18                   determines that the company’s plan complies with the requirements of  
19                   subdivision (a)(1) of this section.

20   \* \* \*

1       Sec. 2. 30 V.S.A. § 248 is amended to read:

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

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

5               (A) in any way purchase electric capacity or energy from outside the  
6       state:

7                       (i) for a period exceeding five years, that represents more than  
8       three percent of its historic peak demand, unless the purchase is from a plant as  
9       defined in subdivision 8002(12) of this title that produces electricity from  
10      renewable energy as defined under subdivision 8002(2); or

11                      (ii) for a period exceeding ten years, that represents more than ten  
12      percent of its historic peak demand, if the purchase is from a plant as defined  
13      in subdivision 8002(12) of this title that produces electricity from renewable  
14      energy as defined under subdivision 8002(2); or

15               (B) invest in an electric generation or transmission facility located  
16      outside this state unless the public service board first finds that the same will  
17      promote the general good of the state and issues a certificate to that effect.

18               (2) Except for the replacement of existing facilities with equivalent  
19      facilities in the usual course of business, and except for electric generation  
20      facilities that are operated solely for on-site electricity consumption by the  
21      owner of those facilities:

1           (A) no company, as defined in section 201 of this title, and no person,  
2 as defined in 10 V.S.A. § 6001(14), may begin site preparation for or  
3 construction of an electric generation facility or electric transmission facility  
4 within the state which is designed for immediate or eventual operation at any  
5 voltage; and

6           (B) no such company may exercise the right of eminent domain in  
7 connection with site preparation for or construction of any such transmission or  
8 generation facility, unless the public service board first finds that the same will  
9 promote the general good of the state and issues a certificate to that effect.

10          (3) No company, as defined in section 201 of this title, and no person, as  
11 defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or  
12 commence construction of any natural gas facility, except for the replacement  
13 of existing facilities with equivalent facilities in the usual course of business,  
14 unless the public service board first finds that the same will promote the  
15 general good of the state and issues a certificate to that effect pursuant to this  
16 section.

17           (A) For the purposes of this section, the term “natural gas facility”  
18 shall mean any natural gas transmission line, storage facility, manufactured-gas  
19 facility, or other structure incident to any of the above. For purposes of this  
20 section, a “natural gas transmission line” shall include any feeder main or any  
21 pipeline facility constructed to deliver natural gas in Vermont directly from a

1 natural gas pipeline facility that has been certified pursuant to the Natural Gas  
2 Act, 15 U.S.C. § 717 et seq.

3 (B) For the purposes of this section, the term “company” shall not  
4 include a “natural gas company” (including a “person which will be a natural  
5 gas company upon completion of any proposed construction or extension of  
6 facilities”), within the meaning of the Natural Gas Act, 15 U.S.C. § 717 et seq. ;  
7 provided however, that the term “company” shall include any “natural gas  
8 company” to the extent it proposes to construct in Vermont a natural gas  
9 facility that is not solely subject to federal jurisdiction under the Natural  
10 Gas Act.

11 \* \* \*

12 (b) Before the public service board issues a certificate of public good as  
13 required under subsection (a) of this section, it shall find that the purchase,  
14 investment or construction:

15 (1) with respect to an in-state facility, will not unduly interfere with the  
16 orderly development of the region with due consideration having been given to  
17 the recommendations of the municipal and regional planning commissions, the  
18 recommendations of the municipal legislative bodies, and the land  
19 conservation measures contained in the plan of any affected municipality.  
20 However, with respect to a natural gas transmission line subject to board  
21 review, the line shall be in conformance with any applicable provisions

1 concerning such lines contained in the duly adopted regional plan; and, in  
2 addition, upon application of any party, the board shall condition any  
3 certificate of public good for a natural gas transmission line issued under this  
4 section so as to prohibit service connections that would not be in conformance  
5 with the adopted municipal plan in any municipality in which the line is  
6 located;

7 (2) is required to meet the need for present and future demand for  
8 service which could not otherwise be provided in a more ~~cost-effective~~  
9 cost-effective manner through energy conservation programs and measures and  
10 energy-efficiency and load management measures, including but not limited to  
11 those developed pursuant to the provisions of subsection 209(d), section 218c,  
12 and subsection 218(b) of this title. In analyzing the cost-effectiveness of a  
13 purchase, investment, or construction under this subdivision, the board shall  
14 evaluate all economic and environmental costs as provided under subsection  
15 218c(a) of this title;

16 (3) will not adversely affect system stability and reliability;

17 (4) will result in an economic benefit to the state and its residents;

18 (5) with respect to an in-state facility, will not have an undue adverse  
19 effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural  
20 environment, and the public health and safety, with due consideration having

1       been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1)  
2       through (8) and (9)(K);

3               (6) with respect to purchases, investments, or construction by a  
4       company, is consistent with the principles for resource selection expressed in  
5       that company's approved least cost integrated plan;

6               (7) except as to a natural gas facility that is not part of or incidental to an  
7       electric generating facility, is in compliance with the electric energy plan  
8       approved by the department under section 202 of this title, or that there exists  
9       good cause to permit the proposed action;

10              (8) does not involve a facility affecting or located on any segment of the  
11       waters of the state that has been designated as outstanding resource waters by  
12       the water resources board, except that with respect to a natural gas or electric  
13       transmission facility, the facility does not have an undue adverse effect on  
14       those outstanding resource waters;

15              (9) with respect to a waste to energy facility, is included in a solid waste  
16       management plan adopted pursuant to 24 V.S.A. § 2202a, which is consistent  
17       with the state solid waste management plan; and

18              (10) except as to a natural gas facility that is not part of or incidental to  
19       an electric generating facility, can be served economically by existing or  
20       planned transmission facilities without undue adverse effect on Vermont  
21       utilities or customers.



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Sec. 3. 30 V.S.A. § 3 is added to read:

§ 3. PUBLIC SERVICE BOARD

(a) The public service board shall consist of a chairperson and two ~~members. The chairperson and each member~~ regular members, none of whom shall not be required to be admitted to the practice of law in this state, except that in the case of appeals to the board pursuant to 10 V.S.A. § 8506 (renewable energy plant; telecommunications facility; appeals), the board shall consist of a chairperson, the two regular members, and an additional two members who shall meet the following requirements:

(1) One member shall have substantial expertise in relevant environmental science and the other member shall have substantial expertise in relevant environmental law.

(2) One member shall reside in Addison, Bennington, Orange, Rutland, Windham, or Windsor County, and one member shall reside in Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orleans, or Washington County.

(b) The chairperson shall be nominated, appointed and confirmed in the manner of a superior judge.

(c) Members of the board other than the chairperson shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public

1 announcement of the vacancy shall be made. The governor shall submit at  
2 least five names of potential nominees to the judicial nominating board for  
3 review. The judicial nominating board shall review the candidates ~~in respect to~~  
4 ~~judicial criteria and standards only~~ and shall recommend to the governor those  
5 candidates the board considers qualified. The governor shall make the  
6 appointment from the list of qualified candidates. The appointment shall be  
7 subject to the consent of the senate.

8 (1) In reviewing candidates for the two regular members, the judicial  
9 nominating board shall review the candidates with respect to judicial criteria  
10 and standards only.

11 (2) In reviewing candidates for the two members who sit only on  
12 appeals to the public service board under 10 V.S.A. § 8506, the judicial  
13 nominating board shall review the candidates with respect to judicial criteria  
14 and standards and the requirements of subdivisions (a)(1) and (2) of this  
15 section.

16 \* \* \*

17 Sec. 4. 32 V.S.A. § 1012 is amended to read:

18 § 1012. PUBLIC SERVICE BOARD

19 The annual salary of the chairperson of the public service board shall be the  
20 same as fixed for each superior court judge. The annual salary of each of the  
21 two other regular members of the public service board, each of whom shall

1 serve on a part-time basis, shall be equal to two-thirds of that of the  
2 chairperson. The annual salary of the clerk of such board shall be fixed by the  
3 board with the approval of the governor. The two additional members of the  
4 board who serve only on appeals under 10 V.S.A. § 8506 shall receive  
5 reimbursement at the per diem rate set in section 1010 of this title plus mileage  
6 and actual and necessary expenses.

7 Sec. 5. EFFECTIVE DATE; APPOINTMENTS

8 (a) This section shall take effect on passage.

9 (b) Secs. 1 (least cost integrated planning) and 2 (new gas and electric  
10 purchases) of this act shall take effect on July 1, 2012.

11 (c) Secs. 3 (public service board composition) and 4 (public service board  
12 salaries) shall take effect on September 1, 2012, except that on passage, the  
13 governor and the judicial nominating board shall have full authority  
14 respectively to submit names, to recommend qualified candidates, and, in the  
15 case of the governor, to appoint the two additional members to the public  
16 service board in accordance with the provisions of Sec. 3 of this act, 3 V.S.A.  
17 § 3(a) and (c). The following shall apply to the initial appointment of those  
18 two additional members: the governor shall submit names to the judicial  
19 nominating board by July 15, 2012; the judicial nominating board shall make  
20 its recommendations by August 15, 2012; and the governor shall make the  
21 appointments by August 31, 2012.