

NO. 61. AN ACT RELATING TO RENEWABLE ENERGY,  
EFFICIENCY, TRANSMISSION, AND VERMONT'S ENERGY  
FUTURE.

(S.52)

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

\* \* \* I. Renewable Portfolio Standards \* \* \*

Sec. 1. 30 V.S.A. § 8001(a) is amended to read:

§ 8001. RENEWABLE ENERGY GOALS

~~(a) The renewable energy programs authorized under this chapter shall be designed and implemented to achieve the following goals:~~

~~(1) Air and water quality shall be protected and promoted in renewable energy programs.~~

~~(2) The continued acquisition of cost-effective end-use energy efficiency measures shall be preserved and enhanced in renewable energy programs.~~

~~(3) Programs shall, to the extent practicable, support development of renewable energy and energy efficiency industries and infrastructure in Vermont, while still sustaining existing renewable energy infrastructure.~~

~~(4) Programs shall, to the extent practicable, be designed and implemented in a manner that balances program benefits and costs, and rates.~~

The general assembly finds it in the interest of the people of the state to promote the state energy policy established in section 202a of this title by:

(1) Balancing the benefits, lifetime costs, and rates of the state's overall energy portfolio to ensure that to the greatest extent possible the economic

benefits of renewable energy in the state flow to the Vermont economy in general, and to the rate paying citizens of the state in particular.

(2) Supporting development of renewable energy and related planned energy industries in Vermont, in particular, while retaining and supporting existing renewable energy infrastructure.

(3) Providing an incentive for the state’s retail electricity providers to enter into affordable, long-term, stably priced renewable energy contracts that mitigate market price fluctuation for Vermonters.

(4) Developing viable markets for renewable energy and energy efficiency projects.

(5) Protecting and promoting air and water quality by means of renewable energy programs.

(6) Contributing to reductions in global climate change and anticipating the impacts on the state’s economy that might be caused by federal regulation designed to attain those reductions.

Sec. 2. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

For purposes of this chapter:

(1)(A) “Renewable pricing” shall mean an optional service provided or contracted for by an electric company:

(i) under which the company’s customers may voluntarily either:

(I) purchase all or part of their electric energy from renewable

sources as defined in this chapter; or

(II) cause the purchase and retirement of tradeable renewable energy credits on the participating customer's behalf; and

(ii) which increases the company's reliance on renewable sources of energy beyond those the electric company would otherwise be required to provide under section 218c of this title.

(B) Renewable pricing programs may include, but are not limited to:

(i) contribution-based programs in which participating customers can determine the amount of a contribution, monthly or otherwise, that will be deposited in a board-approved fund for new renewable energy project development;

(ii) energy-based programs in which customers may choose all or a discrete portion of their electric energy use to be supplied from renewable resources;

(iii) facility-based programs in which customers may subscribe to a share of the capacity or energy from specific new renewable energy resources.

(2) "Renewable energy" means energy produced using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate.

(A) For purposes of this subdivision (2), methane gas and other flammable gases produced by the decay of sewage treatment plant wastes or

landfill wastes and anaerobic digestion of agricultural products, byproducts, or wastes shall be considered renewable energy resources, but no form of solid waste, other than agricultural or silvicultural waste, shall be considered renewable.

(B) For purposes of this subdivision (2), no form of nuclear fuel shall be considered renewable.

(C) For purposes of this chapter, the only energy produced by a hydroelectric facility to be considered renewable shall be from a hydroelectric facility with a generating capacity of ~~80~~ 200 megawatts or less.

(D) After conducting administrative proceedings, the board may add technologies or technology categories to the definition of “renewable energy,” provided that technologies using the following fuels shall not be considered renewable energy supplies: coal, oil, propane, and natural gas.

(3) “Existing renewable energy” means all types of renewable energy sold from the supply portfolio of a Vermont retail electricity provider that is not considered to be from a new renewable energy source.

(4) “New renewable energy” means renewable energy produced by a generating resource coming into service after December 31, 2004. This may include the additional energy from an existing renewable facility retrofitted with advanced technologies or otherwise modified or expanded to increase the kwh output of the facility. If the production of new renewable energy through retrofitting involves combustion of the resource, the system must result in an

incrementally higher level of energy conversion efficiency or significantly reduced emissions. For the purposes of this chapter, renewable energy refers to either “existing renewable energy” or “new renewable energy.”

(5) “Qualifying SPEED resources” means contracts for in-state resources in the SPEED program established under section 8005 of this title that meet the definition of new renewable energy under this section, whether or not renewable energy credits are attached.

(6) “Nonqualifying SPEED resources” means contracts for in-state resources in the SPEED program established under section 8005 of this title that are fossil fuel-based, combined heat and power (CHP) facilities that sequentially produce both electric power and thermal energy from a single source or fuel. In addition, at least 20 percent of a facility’s fuel’s total recovered energy must be thermal and at least 13 percent must be electric, the design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) must be at least 65 percent, and the facility must meet air quality standards established by the agency of natural resources.

(7) “Energy conversion efficiency” means the effective use of energy and heat from a combustion process.

(8) “Tradeable renewable energy credits” means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

\* \* \*

(9) "Retail electricity provider" means a company engaged in the distribution or sale of electricity directly to the public.

Sec. 3. 30 V.S.A. § 8004 is amended to read:

§ 8004. RENEWABLE PORTFOLIO STANDARDS FOR SALES OF  
ELECTRIC ENERGY

~~(a) The public service board shall design a proposed renewable portfolio standard in the form of draft legislation. The standard shall be developed with the aid of a renewable portfolio standard collaborative. The renewable portfolio standard collaborative, composed of representatives from the electric utilities, industry, renewable energy industry, ratepayers, environmental and consumer groups, the department of public service, and other stakeholders identified by the board, shall aid in the development of a renewable portfolio standard for renewable energy resources, as well as requirements for implementation of and compliance with that standard. The proposed renewable portfolio standard shall be applicable to all providers of electricity to retail consumers in this state. The proposed renewable portfolio standard developed by the board will be presented to the house committee on commerce, the house and senate committees on natural resources and energy, and the senate committee on finance in the form of draft legislation for consideration in January 2004.~~

~~(b) In developing the renewable portfolio standard, the board shall consider~~

~~the following goals, which shall be afforded equal weight in formulating the standard:~~

~~(1) increase the use of renewable energy in Vermont in order to capture the benefits of renewable energy generation for Vermont ratepayers and citizens.~~

~~(2) maintain or reduce the rates of electricity being paid by Vermont ratepayers and lessen the price risk and volatility for future ratepayers.~~

(a) Except as otherwise provided in section 8005 of this title, in order for Vermont retail electricity providers to achieve the goals established in section 8001 of this title, no retail electricity provider shall sell or otherwise provide or offer to sell or provide electricity in the state of Vermont without ownership of sufficient energy produced by renewable resources as described in this chapter, or sufficient tradeable renewable energy credits that reflect the required renewable energy as provided for in subsection (b) of this section. In the case of members of the Vermont Public Power Supply Authority, the requirements of subsection (b) of this section may be met in the aggregate through all requirements contracts pursuant to section 4002a of this title, or in the aggregate otherwise as approved by the board.

(b) Each retail electricity provider in Vermont shall provide a certain amount of new renewable resources in its portfolio. Subject to subdivision 8005(d)(1) of this title each retail electricity provider in Vermont shall supply an amount of energy equal to its total incremental energy growth between

January 1, 2005 and January 1, 2012 through the use of electricity generated by new renewable resources. The retail electricity provider may meet this requirement through eligible new renewable energy credits, new renewable energy resources with renewable energy credits still attached, or a combination of those credits and resources. No retail electricity provider shall be required to provide in excess of a total of 10 percent of its calendar year 2005 retail electric sales with electricity generated by new renewable resources.

(c) The requirements of subsection (b) of this section shall apply to all retail electricity providers in this state, unless the retail electricity provider demonstrates and the public service board determines that compliance with the standard would impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs.

(d) The public service board shall provide, by order or rule, the regulations and procedures that are necessary to allow the public service board and the department of public service to implement and supervise further the implementation and maintenance of a renewable portfolio standard.

(e) In lieu of, or in addition to purchasing tradeable renewable energy credits to satisfy the portfolio requirements of this section, a retail electricity provider in this state may pay to a renewable energy fund established by the public service board an amount per kilowatt hour as established by the board. As an alternative, the board may require any proportion of this amount to be



paid to the energy conservation fund established under subsection 209(d) of this title.

(f) Before December 30, 2007 and again before December 30, 2009, the public service board shall file a report with the Senate Committees on Finance and on Natural Resources and Energy and the House Committees on Commerce and on Natural Resources and Energy. The report shall include the following:

(1) the total cumulative load growth in Vermont from 2005 through the end of the year that precedes the date on which the report is due;

(2) a report on the market for tradeable renewable energy credits, including the prices at which credits are being sold;

(3) a report on the SPEED program, and any projects using the program;

(4) a summary of other contracts held or projects developed by Vermont retail electricity providers that are likely to be eligible under the provisions of subsection 8005(d) of this title;

(5) an estimate of potential effects on rates, economic development and jobs, if the target established in subsection 8005(d) of this section is met, and if it is not met;

(6) an assessment of the supply portfolios of Vermont retail electricity providers, and the resources available to meet new supply requirements likely to be triggered by the expiration of major power supply contracts;

(7) an assessment of the energy efficiency and renewable energy

markets and recommendations to the legislature regarding strategies that may be necessary to encourage the use of these resources to help meet upcoming supply requirements; and

(8) any recommendations for statutory change related to this section, including recommendations for rewarding utilities that make substantial investments in SPEED resources.

Sec. 4. 30 V.S.A. §§ 8005 and 8006 are added to read:

§ 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE

DEVELOPMENT (SPEED) PROGRAM

(a) In order to achieve the goals of section 8001 of this title, there is created the Sustainably Priced Energy Enterprise Development (SPEED) program.

The SPEED program shall have two categories of projects: qualifying SPEED resources and nonqualifying SPEED resources.

(b) The SPEED program shall be established, after notice and hearing, by the public service board by January 1, 2007. As part of the SPEED program, the public service board may:

(1) name one or more entities to become engaged in the purchase and resale of electricity generated within the state by means of qualifying SPEED resources or nonqualifying SPEED resources;

(2) allow the developer of a facility that is one megawatt or less, and is a qualifying SPEED resource or a nonqualifying SPEED resource, to sell that power under a long term contract that is established at a specified margin

below the hourly spot market price;

(3) encourage Vermont's retail electricity providers to secure long-term contracts for renewable energy that are anticipated to be below the long-term market price, over the lives of the projects. The board may create a competitive bid process through which to select a portion of those contracts;

(4) maximize the benefit to rate payers from the sale of renewable energy credits or other credits that may be developed in the future, especially with regard to the projects approved under subdivision (3) of this subsection;

(5) encourage retail electricity provider sponsorship and partnerships in the development of renewable energy projects;

(6) make available to Vermont retail electricity providers for purchase through the SPEED program, on a pro rata basis, a specified portion of the power generated under subdivisions (2) and (3) of this subsection. A retail electricity provider that chooses not to purchase a pro rata share of power generated under subdivision (3) of this section must establish, to the satisfaction of the board, that the purchase would impair the provider's ability to meet the public's need for energy services after safety concerns are addressed at the lowest present value life cycle cost, including environmental and economic costs;

(7) establish a method for Vermont retail electrical providers to obtain beneficial ownership of the renewable energy credits associated with any SPEED projects, in the event that a renewable portfolio standard is in effect

under the provisions of section 8004 of this title;

(8) create a mechanism by which a retail electricity provider may establish that it has a sufficient amount of renewable energy, or resources that would otherwise qualify under the provisions of subsection (d) of this section, in its portfolio so that equity requires that the retail electricity provider be relieved, in whole or in part, from requirements established under subdivision (6) of this subsection that would require a retail electricity provider to purchase SPEED power;

(9) provide that in any proceeding under subdivision 248(a)(2)(A) of this title, a demonstration of compliance with subdivision 248(b)(2) of this title, relating to establishing need for the facility, shall not be required if the facility is a SPEED resource and if no part of the facility is financed directly or indirectly through investments, other than power contracts, backed by Vermont electricity ratepayers; and

(10) take such other measures as the board finds necessary or appropriate to implement SPEED.

(c) Developers of qualifying and nonqualifying SPEED resources shall be entitled to classification as an eligible facility under 10 V.S.A. chapter 12, relating to the Vermont Economic Development Authority.

(d)(1) The public service board shall meet on or before January 1, 2012, open a proceeding, and issue findings determining the amount of qualifying SPEED resources that have come into service or are projected to come into

service during the period of time between January 1, 2005 and January 1, 2013. If the board finds that the amount of qualifying SPEED resources coming into service during that time exceeds total statewide growth in demand during the period of time between January 1, 2005 and January 1, 2012, or if it finds that the amount of qualifying SPEED resources exceeds 10 percent of total statewide load for calendar year 2005, the portfolio standards established under this chapter shall not be in force. The board shall make its determination by July 1, 2012. If the board finds that the goal established has not been met, one year after the board's determination the portfolio standards established under subsection 8004(b) of this title shall take effect.

(2) For the purposes of the determination to be made under this subsection, electricity produced at all facilities owned by or under long-term contract to Vermont retail electricity providers, whether it is generated inside or outside Vermont, that is new renewable energy shall be counted in the calculations under subdivision (d)(1) of this section.

(e) By no later than September 1, 2006, the public service board shall provide, by order or rule, the regulations and procedures that are necessary to allow the public service board and the department of public service to implement, and to supervise further the implementation and maintenance of the SPEED program.

#### § 8006. TRADEABLE CREDITS

(a) The public service board shall establish or adopt a system of tradeable

renewable energy credits for renewable resources that may be earned by electric generation qualifying for the renewables portfolio standard. The system shall be designed to be consistent with regional practices.

(b) The public service board shall ensure that all electricity provider and provider-affiliate disclosures and representations made with regard to a provider's portfolio are accurate and reasonably supported by objective data. Further, the public service board shall ensure that providers disclose the types of generation used and whether the energy is Vermont-based, and shall clearly distinguish between energy or tradeable energy credits provided from renewable and nonrenewable sources and existing and new sources.

Sec. 5. 10 V.S.A. § 212(6) is amended to read:

(6) "Eligible facility" or "eligible project" means any industrial, commercial, or agricultural enterprise or endeavor approved by the authority that meets the criteria established in the Vermont sustainable jobs strategy adopted by the governor under section 280b of this title, including land and rights in land, air, or water, buildings, structures, machinery, and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of state, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing. Such enterprises or endeavors may include:

\* \* \*

(L) a captive or commercial insurance underwriter, a mortgage, commercial, or consumer credit provider, or an entity engaged in underwriting or brokering services; ~~or~~

(M) qualifying Sustainably Priced Energy Enterprise Development (SPEED) resources or nonqualifying SPEED resources, as defined in 30 V.S.A. § 8002; or

(N) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities.

\* \* \* II. Distributed Generation and Energy Efficiency \* \* \*

\* \* \* Combined heat and power and efficiency utility cap \* \* \*

Sec. 6. 30 V.S.A. § 209(d) and (e) are amended to read:

(d)(1) The public service department, any entity appointed by the board under subdivision (2) of this subsection, all gas and electric utility companies, and the board upon its own motion, are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and measures, including appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable agency of natural resources' air quality standards. Such programs and measures, and their implementation, may be approved by the board if it determines they will

be beneficial to the ratepayers of the companies after such notice and hearings as the board may require by order or by rule.

(2) In place of utility-specific programs developed pursuant to section 218c of this title, the board may, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures including programs and measures delivered in multiple service territories, by one or more entities appointed by the board for these purposes. The board may include appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable agency of natural resources' air quality standards. The board may specify that the implementation of these programs and measures satisfies a utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the board.

\* \* \*

(4) The charge established by the board pursuant to subdivision (3) of this subsection shall ~~not exceed the amount needed to provide \$17,500,000.00 to support all energy efficiency programs for Vermonters authorized by the board by rule or order pursuant to subdivision (2) of this subsection in any fiscal year. No more than \$17,500,000.00 of financial support for energy efficiency programs for Vermonters shall be authorized by the board by rule or order pursuant to subdivision (2) of this subsection in any fiscal year~~ be in an



amount determined by the board by rule or order that is consistent with the principles of least cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the board shall determine an appropriate balance among the following objectives: providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and the value of targeting efficiency and conservation efforts to locations, markets or customers where they may provide the greatest value. The board, by rule or order, shall establish a process by which a customer may apply to the board for an exemption from some or all of the charges assessed under this subdivision. The board shall establish criteria by which these applications shall be measured. Any such exemption shall extend for a period of time not to exceed one year. In addition, the board may authorize exemptions only if, at a minimum, a customer demonstrates that, during the preceding year, it implemented an extraordinary amount of cost-effective energy efficiency at the customer's own expense or incurred extraordinary costs on those measures and the customer did not and will not receive reimbursement for those measures from the entity designated by the board under this section.

(e) The board shall:

\* \* \*

(14) Consider the impact on retail electric rates of programs delivered under subsection (d) of this section.

Sec. 7. STANDARDS FOR INTERCONNECTION OF DISTRIBUTED  
GENERATION

On or before September 1, 2006, the public service board shall establish by rule or order standard provisions, including applicable fees that are required to cover the total cost of interconnection to be paid by the qualified distributed generator, for agreements providing for interconnection between the facilities of a retail electricity provider under the jurisdiction of the board and the facilities of a qualified distributed generator. The applicable safety, power quality, and interconnection requirement rules adopted by the board pursuant to section 219a of Title 30 shall be utilized in addition to any other requirements necessary to protect public safety and system reliability. The board may provide that such interconnection agreements may be conditioned in instances where interconnection would cause electric instability on the facilities of the local distribution grid. For the purposes of this section, “qualified distributed generator” means an electrical generator that has a capacity of less than 50 megawatts or a lower megawatt capacity established by the board in order to avoid federal preemption, and that is either:

- (1) a renewable generator as defined in section 8002 of Title 30; or
- (2) a generator that is part of a combined heat and power application providing an overall energy conversion efficiency of 65 percent or greater.

\* \* \* III. Transmission and Distribution \* \* \*

\* \* \* Regulatory policy \* \* \*

Sec. 8. ADVOCACY FOR REGIONAL ELECTRICITY RELIABILITY  
POLICY

It shall be the policy of the state of Vermont, in negotiations and policy-making at the New England Independent System Operator, in proceedings before the Federal Energy Regulatory Commission, and in all other relevant venues, to support an efficient reliability policy, as follows:

(1) When cost recovery is sought through regionwide regulated rates or uplift tariffs for power system reliability improvements, all available resources – transmission, strategic generation, targeted energy efficiency, and demand response resources – should be treated comparably in analysis, planning, and access to funding.

(2) A principal criterion for approving and selecting a solution should be whether it is the least-cost solution to a system need on a total cost basis.

(3) Ratepayers should not be required to pay for system upgrades in other states that do not meet these least-cost and resource-neutral standards.

(4) For reliability-related projects in Vermont, subject to the review of the public service board, regional financial support should be sought and made available for transmission and for distributed resource alternatives to transmission on a resource-neutral basis.

(5) The public service department, public service board, and attorney

general shall advocate for these policies in negotiations and appropriate proceedings before the New England Independent System Operator, the New England Regional Transmission Operator, the Federal Energy Regulatory Commission, and all other appropriate regional and national forums. This subdivision shall not be construed to compel litigation or to preclude settlements that represent a reasonable advance to these policies.

(6) In addressing reliability problems for the state's electric system, Vermont retail electricity providers and transmission companies shall advocate for regional cost support for the least cost solution with equal consideration and treatment of all available resources, including transmission, strategic distributed generation, targeted energy efficiency, and demand response resources on a total cost basis. This subdivision shall not be construed to compel litigation or to preclude settlements that represent a reasonable advance to these policies.

\* \* \* Transmission and Distribution Planning \* \* \*

Sec. 9. 30 V.S.A. § 218c is amended to read:

§ 218c. LEAST COST INTEGRATED PLANNING

\* \* \*

(d)(1) Least cost transmission services shall be provided in accordance with this subsection. Not later than July 1, 2006, any electric company that does not have a designated retail service territory and that owns or operates electric transmission facilities within the state of Vermont, in conjunction with any

other electric companies that own or operate these facilities, jointly shall prepare and file with the department of public service and the public service board a transmission system plan that looks forward for a period of at least ten years. A copy of the plan shall be filed with each of the following: the house committees on commerce and on natural resources and energy and the senate committees on finance and on natural resources and energy. The objective of the plan shall be to identify the potential need for transmission system improvements as early as possible, in order to allow sufficient time to plan and implement more cost-effective nontransmission alternatives to meet reliability needs, wherever feasible. The plan shall:

(A) identify existing and potential transmission system reliability deficiencies by location within Vermont;

(B) estimate the date, and identify the local or regional load levels and other likely system conditions at which these reliability deficiencies, in the absence of further action, would likely occur;

(C) describe the likely manner of resolving the identified deficiencies through transmission system improvements;

(D) estimate the likely costs of these improvements;

(E) identify potential obstacles to the realization of these improvements; and

(F) identify the demand or supply parameters that generation, demand response, energy efficiency or other nontransmission strategies would

need to address to resolve the reliability deficiencies identified.

(2) Prior to the adoption of any transmission system plan, a utility preparing a plan shall host at least two public meetings at which it shall present a draft of the plan and facilitate a public discussion to identify and evaluate nontransmission alternatives. The meetings shall be at separate locations within the state, in proximity to the transmission facilities involved or as otherwise required by the board, and each shall be noticed by at least two advertisements, each occurring between one and three weeks prior to the meetings, in newspapers having general circulation within the state and within the municipalities in which the meetings are to be held. Copies of the notices shall be provided to the public service board, the department of public service, any entity appointed by the public service board pursuant to subdivision 209(d)(2) of this title, the agency of natural resources, the division for historic preservation, the department of health, the scenery preservation council, the agency of transportation, the attorney general, the chair of each regional planning commission, each retail electricity provider within the state, and any public interest group that requests, or has made a standing request for, a copy of the notice. A verbatim transcript of the meetings shall be prepared by the utility preparing the plan, shall be filed with the public service board and the department of public service, and shall be provided at cost to any person requesting it. The plan shall contain a discussion of the principal contentions made at the meetings by members of the public, by any state agency, and by

any utility.

(3) Prior to the issuance of the transmission plan or any revision of the plan, the utility preparing the plan shall offer to meet with each retail electricity provider within the state, with any entity appointed by the public service board pursuant to subdivision 209(d)(2) of this title, and with the department of public service, for the purpose of exchanging information that may be relevant to the development of the plan.

(4)(A) A transmission system plan shall be revised:

(i) within nine months of a request to do so made by either the public service board or the department of public service; and

(ii) in any case, at intervals of not more than three years.

(B) If more than 18 months shall have elapsed between the adoption of any version of the plan and the next revision of the plan, or since the last public hearing to address a proposed revision of the plan and facilitate a public discussion that identifies and evaluates nontransmission alternatives, the utility preparing the plan, prior to issuing the next revision, shall host public meetings as provided in subdivision (2) of this subsection, and the revision shall contain a discussion of the principal contentions made at the meetings by members of the public, by any state agency, and by any retail electricity provider.

(5) On the basis of information contained in a transmission system plan, obtained through meetings held pursuant to subdivision (2) of this subsection, or obtained otherwise, the public service board and the department of public



service shall use their powers under this title to encourage and facilitate the resolution of reliability deficiencies through nontransmission alternatives, where those alternatives would better serve the public good. The public service board, upon such notice and hearings as are otherwise required under this title, may enter such orders as it deems necessary to encourage, facilitate or require the resolution of reliability deficiencies in a manner that it determines will best promote the public good.

(6) The retail electricity providers in affected areas shall incorporate the most recently filed transmission plan in their individual least cost integrated planning processes, and shall cooperate as necessary to develop and implement joint least cost solutions to address the reliability deficiencies identified in the transmission plan.

(7) Before the department of public service takes a position before the board concerning the construction of new transmission or a transmission upgrade with significant land use ramifications, the department shall hold one or more public meetings with the legislative bodies or their designees of each town, village, or city that the transmission lines cross, and shall engage in a discussion with the members of those bodies or their designees and the interested public as to the department's role as public advocate.

Sec. 10. INVESTIGATION OF REGIONAL POTENTIAL OF ENERGY  
CONSERVATION AND EFFICIENCY PROGRAMS

(a) On or before January 1, 2006, the department of public service shall

investigate the following issues and report to the House Committees on Natural Resources and Energy and on Commerce, and to the Senate Committees on Finance, and on Natural Resources and Energy:

(1) The extent to which an aggressive region-wide implementation of energy efficiency and renewable energy programs might affect the price of spot market power in the New England ISO through the effect of such programs on bid prices, where the clearing price of the electric market is reduced due to reduced electric demand. The extent to which these measures could affect the total cost of power for Vermont and New England. The extent to which it is possible to use these programs to mitigate risk associated with fossil fuel price variability.

(2) The potential for such an aggressive regional approach to be integrated with and complement distribution and transmission least cost planning, as well as regional efforts to reduce greenhouse gas emissions and other air pollution.

(3) The obstacles and opportunities for development of an effective system of Energy Efficiency Credits analogous to the tradeable Renewable Energy Credits for which there is now a regional market.

(4) A comparison of the policy options facing Vermont if there is a trading system for carbon emission allowances for electric power in New England.

(5) The options being considered by Vermont's retail electricity

providers and transmission companies for meeting Vermont's electric supply requirements in light of the expiration of long-term supply contracts.

(b) The analysis and report required in this section may be included in other studies and efforts by the department, including revisions to the Twenty Year Electric Plan, a new Comprehensive Energy Plan, studies on the extent of cost-effective energy efficiency potential in Vermont, or the Biennial Report to the Legislature.

\* \* \* IV. Regulatory Policy: performance based ratemaking \* \* \*

\* \* \* Performance based ratemaking \* \* \*

Sec. 11. 30 V.S.A. § 218d(a) is amended to read:

(a) Notwithstanding section 218 and sections 225-227 of this title, upon petition of an electric or natural gas company, upon request of the department of public service, or on its own initiative, the public service board may, after opportunity for hearing, approve alternative forms of regulation for an electric or natural gas company; provided, however, in the case of a municipal plant or department formed under local charter or chapter 79 of this title or an electric cooperative formed under chapter 81 of this title, any alternative forms of regulation approved by the board shall also be approved by a majority of the voters of a municipality or cooperative voting upon the question at a duly warned annual or special meeting held for that purpose. Before doing so, the board shall find that the proposed form of alternative regulation will:

(1) establish a system of regulation in which such companies have clear

incentives to provide least-cost energy service to their customers;

(2) provide just and reasonable rates for service to all classes of customers;

(3) deliver safe and reliable service;

(4) offer incentives for innovations and improved performance that advance state energy policy such as ~~increased~~ increasing reliance on Vermont-based renewable energy and decreasing the extent to which the financial success of distribution utilities between rate cases is linked to increased sales to end use customers and may be threatened by decreases in those sales;

(5) promote improved quality of service, reliability, and service choices;

(6) encourage innovation in the provision of service;

(7) establish a reasonably balanced system of risks and rewards that encourages the company to operate as efficiently as possible using sound management practices; and

(8) provide a reasonable opportunity, under sound and economical management, to earn a fair rate of return, provided such opportunity must be consistent with flexible design of alternative regulation and with the inclusion of effective financial incentives in such alternatives.

\* \* \* V. Efficiency Standards \* \* \*

\* \* \* Commercial Building Energy Standards \* \* \*

## Sec. 12. COMMERCIAL BUILDING ENERGY STANDARDS

(a) The department of public service is directed to develop a proposal for statewide commercial building energy standards (CBES), after consulting with the following:

(1) Efficiency Vermont;

(2) Burlington Electric Department;

(3) Vermont Gas Systems;

(4) the commercial building design community;

(5) the commercial building development and construction community;

and

(6) other interested persons.

(b) No later than January 31, 2006, the commissioner of public service shall recommend to the legislature guidelines for the content of a statewide commercial building energy standard. The standard will recommend energy efficiency standards for commercial building systems including:

(1) Lighting;

(2) Heating, ventilation, and air conditioning (HVAC) equipment;

(3) Building envelope (wall, roof and floor insulation, windows, doors, cellar);

(4) Motors;

(5) Transformers;

(6) Controls;

(7) Water usage and hot water.

(c) These guidelines shall be consistent with the requirements of federal law that all states have a statewide commercial energy code that meets or exceeds the efficiency level of ASHRAE 90.1-2001.

(d) The commissioner will work closely with the International Code Council (ICC) and the New Buildings Institute (NBI), as well as other code support agencies, to develop the code in a way that is appropriate for the state.

#### Sec. 13. PUBLIC SERVICE BOARD REPORTS

(a) By no later than January 15, 2007, the public service board shall report to the general assembly on the status of implementation of 30 V.S.A. § 218d(a), relating to alternative forms of regulation. The report shall be filed with the House Committees on Commerce and on Natural Resources and Energy and the Senate Committees on Finance and on Natural Resources and Energy. It shall include an explanation of the results of any alternative form of regulation approved by the board, and if no such form has been approved, an explanation of why no such form has been approved.

(b) The public service board by January 15, 2007, and biennially thereafter up through January 15, 2013, shall report to the house committees on commerce and on natural resources and energy and the senate committees on finance and on natural resources and energy with its recommendations on how the state might best continue to meet the goals established in 30 V.S.A. § 8001, including whether the state should meet its load growth over the succeeding 10 years, up through 2023, by a continuation of the SPEED program.

Sec. 14. 30 V.S.A. § 3007 is amended to read:

§ 3007. MEMBERS, QUALIFICATIONS

Each incorporator of a cooperative shall be a member thereof, but no other person may become a member thereof unless such other person uses electric energy or other services, goods, or products furnished by the cooperative when they are made available through its electric distribution facilities, or a person may become a member by purchasing and paying the cooperative for renewable energy certificates or other environmental attributes associated with the generation of electricity. A member of a cooperative who ceases to use electric energy shall cease to be a member if he or she does not use electric energy supplied by the cooperative within six months after it is made available, or if electric energy is not made available by the cooperative within two years after he or she becomes a member or some lesser period as the bylaws of the cooperative may provide. Two or more owners or occupants of property served by a cooperative may hold a joint membership in a cooperative. Membership in a cooperative shall not be transferable, except as provided by the bylaws. The bylaws may prescribe additional qualifications and limitations in respect to membership.

Sec. 15. DEPARTMENT OF PUBLIC SERVICE AND BOARD REPORTS

(a) By January 15, 2006, the department of public service shall report to the house and senate committees on natural resources and energy, the house committee on commerce, and the senate committee on finance with respect to

recommended procedures and efforts and initiatives to date concerning the involvement of the public in the development and siting of wind energy facilities.

(b) The department of public service is directed to study and make recommendations on the feasibility of establishing grant programs for new renewable generation systems on farms.

(c) The public service board and the department of public service shall report to the house and senate committees on natural resources and energy, the house committees on commerce and on ways and means, and the senate committee on finance by no later than January 15, 2006 and again by no later than January 15, 2007 with respect to the net revenue loss and the net revenue gain to Vermont ratepayers, utilities, and Vermont-based generators as a result of any tariff relating to locational generation capacity; and the options available to mitigate the cost impacts of any such tariff.

Approved: June 14, 2005