

1 S.124

2 Introduced by Committee on Natural Resources and Energy

3 Date: March 16, 2021

4 Subject: Public service

5 Statement of purpose of bill as introduced: This bill proposes to make
6 multiple changes related to subjects within the Public Utility Commission's
7 jurisdiction.

8 An act relating to miscellaneous utility subjects

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

10 Sec. 1. 10 V.S.A. § 1081 is amended to read:

11 § 1081. JURISDICTION OF DEPARTMENT AND PUBLIC UTILITY

12 COMMISSION

13 (a) Powers and duties. Unless otherwise provided, the powers and duties
14 authorized by this chapter shall be exercised by the Department, except that the
15 Public Utility Commission shall exercise those powers and duties over
16 nonfederal dams and projects that relate to or are incident to the generation of
17 electric energy for public use or as a part of a public utility system.

18 Nonfederal dams at which the generation of electric energy is subject to
19 licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12,

1 subchapter 1, shall not be under the jurisdiction of the Public Utility
2 Commission.

3 * * *

4 Sec. 2. 10 V.S.A. § 1100 is amended to read:

5 § 1100. FEDERAL COOPERATION

6 As a basis for cooperation with the federal government and its duly
7 established agencies in the matter of flood control, the State defines its policy
8 with reference to flood control developments as follows:

9 (1) ~~A flood control project, which shall contemplate as an incident~~
10 ~~thereof, the generation of electric energy, shall not be built on any waters~~
11 ~~within the State without the certificate of the Public Utility Commission~~
12 ~~provided for in this chapter having first been obtained in the manner herein~~
13 ~~provided by the proper federal agency or authority, having in charge the~~
14 ~~building of such flood control project. Any modifications of flood control~~
15 ~~dams erected by authority of the federal government in this State shall not be~~
16 ~~made with a view to their utilization for the generation of electric energy,~~
17 ~~except by like authority first being obtained. [Repealed.]~~

18 * * *

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

20 § 3. PUBLIC UTILITY COMMISSION

1 (a) The Vermont Public Utility Commission shall consist of a chair and two
2 members. The Chair and each member shall not be required to be admitted to
3 the practice of law in this State.

4 * * *

5 (h) The Clerk may appoint and assign a former Commission member to sit
6 on specific Commission cases when some or all of the regular members are
7 disqualified or otherwise unable to serve. In making assignments, the Clerk
8 shall begin with the former Commissioner who left service most recently and
9 then, as needed, proceed to the next most recently serving former
10 Commissioner. Former Commissioners shall receive pay in accordance with
11 subsection (e) of this section.

12 Sec. 4. 30 V.S.A. § 30 is amended to read:

13 § 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

14 (a)(1) A person, company, or corporation subject to the supervision of the
15 Commission or the Department of Public Service, who refuses the
16 Commission or the Department of Public Service access to the books,
17 accounts, or papers of such person, company, or corporation within this State,
18 so far as may be necessary under the provisions of this title, or who fails, other
19 than through negligence, to furnish any returns, reports, or information
20 lawfully required by it, or who willfully hinders, delays, or obstructs it in the
21 discharge of the duties imposed upon it, or who fails within a reasonable time

1 to obey a final order or decree of the Commission, or who violates a provision
2 of chapter 2, 7, 75, or 89 of this title, or a provision of section 231 or 248 of
3 this title, or a rule of the Commission, shall be required to pay a civil penalty
4 as provided in subsection (b) of this section after notice and opportunity for
5 hearing.

6 (2) A person who violates a provision of chapter 3 or 5 of this title,
7 except for the provisions of section 231 or 248 of this title, shall be required to
8 pay a civil penalty after notice and opportunity for hearing. If the Commission
9 determines that the violation substantially harmed or might have substantially
10 harmed the public health, safety, or welfare, the interests of utility customers,
11 the environment, the reliability of utility service, or the financial stability of
12 the company, the Commission may impose a civil penalty as provided in
13 subsection (b) of this section. If the Commission determines that the violation
14 did not cause or was not likely to cause such harm, the Commission may
15 impose a civil penalty of not more than ~~\$10,000.00~~ \$42,500.00, in addition to
16 any financial benefit to the violator resulting from the violation.

17 (b) The Commission may impose a civil penalty under subsection (a) of
18 this section of not more than ~~\$40,000.00~~ \$85,000.00, in addition to any
19 financial benefit to the violator resulting from the violation. In the case of a
20 continuing violation, an additional fine of not more than ~~\$10,000.00~~

1 \$42,500.00 per day may be imposed. In no event shall the total fine exceed
2 the larger of:

3 (1) \$100,000.00 \$170,000.00, in addition to any financial benefit to the
4 violator resulting from a violation; or

5 (2) in the case of a company that pays gross receipt taxes under
6 section 22 of this title, one-tenth of one percent of the gross Vermont revenues
7 from regulated activity of the person, company, or corporation in the preceding
8 year, in addition to any financial benefit to the violator resulting from a
9 violation.

10 * * *

11 (d) After notice and an opportunity to be heard, the Commission may order
12 any person, company, or corporation subject to the supervision of the
13 Commission or the Department of Public Service who negligently fails to
14 furnish any returns, reports, or information lawfully required by it to pay a
15 civil penalty of not more than \$10,000.00 \$42,500.00, in addition to any
16 financial benefit to the violator resulting from a violation.

17 * * *

18 (h) In accordance with the process set forth in this subsection, the
19 Department may issue an administrative citation to a person the Department
20 believes after investigation violated section 246, 248, 248a, or 8010 of this

1 title, any rule adopted pursuant to those sections, or any certificate of public
2 good issued pursuant to those sections.

3 * * *

4 (8) Penalties assessed under this subsection shall be deposited in the
5 General Fund except for any amounts the Commission directs to be used for
6 the benefit of ratepayers generally.

7 Sec. 5. 30 V.S.A. § 218 is amended to read:

8 § 218. JURISDICTION OVER CHARGES AND RATES

9 * * *

10 (e) Notwithstanding any other provisions of this section, the Commission,
11 on its own motion or upon petition of any person, may issue an order
12 approving a rate schedule, tariff, agreement, contract, or settlement that
13 provides reduced rates for low-income electric utility consumers better to
14 assure affordability. For the purposes of As used in this subsection, “low-
15 income electric utility consumer” means a customer who has a household
16 income at or below ~~150~~ 185 percent of the current federal poverty level, ~~and~~
17 ~~the Commission shall only set or change the eligibility level for any program~~
18 ~~created pursuant to this section after investigation, evidence, and hearing from~~
19 ~~the distribution utility sponsor of the program and other interested~~
20 ~~stakeholders.~~ When considering whether to approve a rate schedule, tariff,
21 agreement, contract, or settlement for low-income electric utility consumers,

1 the Commission shall take into account the potential impact on, and cost-
2 shifting to, other utility customers.

3 * * *

4 Sec. 6. 30 V.S.A. § 248 is amended to read:

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

7 * * *

8 (j)(1) The Commission may, subject to such conditions as it may otherwise
9 lawfully impose, issue a certificate of public good in accordance with the
10 provisions of this subsection and without the notice and hearings otherwise
11 required by this chapter if the Commission finds that:

12 * * *

13 (2) Any party seeking to proceed under the procedures authorized by
14 this subsection shall file a proposed certificate of public good and proposed
15 findings of fact with its petition. Within two business days of notification by
16 the Commission that the filing is complete, the party shall serve copies of the
17 complete filing on the parties specified in subdivision (a)(4)(C) of this section
18 and the ~~Commission~~ party shall give written notice of the proposed certificate
19 and ~~its of the Commission's~~ determination that the filing is complete to those
20 parties, to any public interest organization that has in writing requested notice
21 of applications to proceed under this subsection, and to any other person found

1 by the Commission to have a substantial interest in the matter. ~~Such~~ The
2 notice ~~also shall be published on the Commission's website within two days of~~
3 ~~issuing the determination that the filing is complete and shall request comment~~
4 within 30 days of the date of service of the complete filing on the question of
5 whether the petition raises a significant issue with respect to the substantive
6 criteria of this section. If the Commission finds that the petition raises a
7 significant issue with respect to the substantive criteria of this section, the
8 Commission shall hear evidence on any such issue.

9 * * *

10 Sec. 7. 30 V.S.A. § 249 is amended to read:

11 § 249. SERVICE TERRITORIES; COMMISSION JURISDICTION

12 * * *

13 (b) The Commission shall have power to exercise the jurisdiction conferred
14 in this section only after due notice to all interested parties and an opportunity
15 for a hearing, and after making findings that the service territories established
16 or altered are consistent with the general good of Vermont. If a hearing is
17 requested by a party or by any customer who is potentially affected by the
18 proposed change, the Commission shall hold a hearing.

19 * * *

1 Sec. 8. 30 V.S.A. § 8005a is amended to read:

2 § 8005a. STANDARD OFFER PROGRAM

3 * * *

4 (j) Termination; reallocation. In the event a proposed plant accepting a
5 standard offer fails to meet the requirements of the Program in a timely
6 manner, the plant's standard offer contract shall terminate, and any capacity
7 reserved for the plant within the Program shall be reallocated to one or more
8 eligible plants.

9 * * *

10 (2) At the request of a plant owner or for other good cause, the
11 Commission may extend a period described in subdivision (1) of this
12 subsection (j) if it finds that the plant owner has proceeded diligently and in
13 good faith and that commissioning of the plant has been delayed because of
14 litigation or appeal or because of the need to obtain an approval the timing of
15 which is outside the Commission's control, or for other good cause as
16 determined by the Commission.

17 * * *

18 ~~Sec. 9. EFFECTIVE DATE~~

19 ~~This act shall take effect on July 1, 2021.~~

Sec. 9. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Sec. 5 (30 V.S.A. § 218) shall take effect upon passage, except for an existing program under 30 V.S.A. § 218(e), for which it shall take effect upon a Commission decision following an investigation regarding tariff changes for the distribution utility sponsor of the program.