

Title 30: Public Service

Chapter 89: Renewable Energy Programs

8001. Renewable energy goals

§ 8001. Renewable energy goals

(a) 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.

(b) The public service board shall provide, by order or rule, the regulations and procedures that are necessary to allow the board and the department of public service to implement and supervise programs pursuant to this chapter. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2005, No. 61, § 1.)

Title 30: Public Service

Chapter 89: Renewable Energy Programs

8002. Definitions

§ 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 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:

(A) those attributes are transferred or recorded separately from that unit of energy;

(B) the party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and

(C) exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the public service board or any program for tracking and verification of the ownership of environmental attributes of energy legally recognized in any state and approved by the board.

(9) "Retail electricity provider" means a company engaged in the distribution or sale of electricity directly to the public. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2005, No. 61, § 2.)

Title 30: Public Service

Chapter 89: Renewable Energy Programs

8003. Renewable pricing

§ 8003. Renewable pricing

(a) Upon petition of an electric company subject to this title, upon request of the department of public service, or on its own initiative, the public service board may approve one or more renewable pricing programs for one or more electric utilities; 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 renewable pricing program 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. Such programs may include, but are not limited to, tariffs, standard special contracts, or other arrangements whose purpose is to increase the company's reliance on, or the customer's support of, renewable sources of energy or the type and quantity of renewable energy resources available.

(b) A standard special contract for renewable pricing that has been approved as to form and substance by the board under this section shall not require further approval by the board under section 229 of this title as to individual customers who choose to execute that contract.

(c) Renewable pricing programs may be priced in the form of a premium relative to the tariff that would otherwise apply; provided the premium shall be cost-based, shall reasonably reflect the difference between acquiring the renewable energy and the utility's alternative cost of power, including administrative costs, and shall be adjusted via such periodic adjustment mechanisms, including adjustment clauses, as the board shall approve as part of a renewable pricing program. Any renewable pricing program shall

require that any costs of power in excess of the company's alternative cost of power shall be borne solely by those customers who elect to participate in the renewable pricing program.

(d) Tradeable renewable energy credits (with or without other features), tradeable emissions credits, emission offsets, or other market instruments created or obtained by energy resources acquired pursuant to or as part of a renewable pricing program approved under this section shall be permanently retired by or on behalf of the program's subscribers, and shall not be sold or otherwise disposed of. However, if a program is not fully subscribed, any such instruments created or obtained by the unsubscribed portion of the program may be sold or disposed of at no less than market value if the net proceeds of such sale or disposal are used to reduce the cost paid under the renewable pricing program.

(e) The board shall ensure that disclosures and representations made regarding renewable pricing programs are accurate, are reasonably supported by objective data, disclose the types of technologies used, whether the energy is Vermont-based or not, and clearly distinguish between energy or tradeable energy credits provided from renewable and nonrenewable sources, and existing and new sources.

(f) Renewable pricing programs offered by a company shall be available to such customer classes as the board may determine.

(g) The board shall consider the following factors in deciding whether to approve a proposed renewable pricing program:

- (1) minimization of marketing and administrative expenses;
- (2) auditing or certification of sources of energy or tradeable renewable energy credits;
- (3) marketing and promotion plans;
- (4) effectiveness of the program in meeting the goals of promoting renewable energy generation and public understanding of renewable energy sources in Vermont;
- (5) retention by the program of renewable energy production incentives, tax incentives and other incentives earned or otherwise obtained by energy resources acquired pursuant to or as part of a renewable pricing program approved under this section to reduce the cost of any premiums paid under this section; and
- (6) costs imposed on nonparticipating customers arising on account of the implementation of the voluntary renewable pricing program. (Added 2003, No. 69, § 1, eff. June 17, 2003.)

Title 30: Public Service

Chapter 89: Renewable Energy Programs

8004. Renewable portfolio standards for sales of electric energy

§ 8004. Renewable portfolio standards for sales of electric energy

(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 biennially thereafter through December 30, 2013, 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 growth in electric energy usage 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;

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

(9) the board's recommendations on how the state might best continue to meet the goals established in section 8001 of this title, including whether the state should meet its growth in energy usage over the succeeding 10 years by a continuation of the SPEED program. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2005, No. 61, § 3; 2005, No. 208 (Adj. Sess.), § 14.)

Title 30: Public Service

Chapter 89: Renewable Energy Programs

8005. Sustainably priced energy enterprise development (SPEED) program

§ 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, by rule, order, or contract, 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 comes into 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 electric energy usage 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 electric energy usage 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. These rules shall assure that

decisions with respect to certificate of public good applications for SPEED resources shall be made in a timely manner.

(f) In order to encourage joint efforts on the part of regulated companies to purchase power that meets or exceeds the SPEED standards and to secure stable, long-term contracts beneficial to Vermonters, the board may establish standards for pre-approving the recovery of costs incurred on a SPEED project that is the subject of that joint effort. (Added 2005, No. 61, § 4; amended 2005, No. 208 (Adj. Sess.), § 15.)

Title 30: Public Service

Chapter 89: Renewable Energy Programs

8006. Tradeable credits

§ 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. (Added 2005, No. 61, § 4.)