VERMONT **GENERAL ASSEMBLY**

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Title 30: Public Service

Chapter 89: Renewable Energy Programs

Subchapter 1: General Provisions

§ 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 that uses natural resources efficiently and related planned energy industries in Vermont, and the jobs and economic benefits associated with such development, 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 in the State and region through the displacement of those fuels, including fossil fuels, which are known to emit or discharge pollutants.

(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.

(7) Providing support and incentives to locate renewable energy plants of small and moderate size in a manner that is distributed across the State's electric grid, including locating such plants in areas that will provide benefit to the operation and management of that grid through such means as reducing line losses and addressing transmission and distribution constraints.

(8) Promoting the inclusion, in Vermont's electric supply portfolio, of renewable energy plants that are diverse in plant capacity and type of renewable energy technology.

(b) The Board shall provide, by order or rule, the regulations and procedures that are necessary to allow the Board and the Department to implement and supervise programs pursuant to this chapter. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2005, No. 61, § 1; 2011, No. 47, § 6 (eff. May 25, 2011) and § 18; 2011, No. 170 (Adj. Sess.), § 1, eff. May 18, 2012.)

[Section 8002 effective until January 1, 2017; see also section 8002 effective January 1, 2017 set out below.]

[Section 8002 effective until January 1, 2017; see also section 8002 effective January 1, 2017 and note set out below.]**§ 8002. Definitions**

As used in this chapter:

(1) "Board" means the Public Service Board under section 3 of this title, except when used to refer to the Clean Energy Development Board.

(2) "Commissioned" or "commissioning" means the first time a plant is put into operation following initial construction or modernization if the costs of modernization are at least 50 percent of the costs that would be required to build a new plant including all buildings and structures technically required for the new plant's operation. However, these terms shall not include activities necessary to establish operational readiness of a plant.

(3) "CPI" means the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(4) "Department" means the Department of Public Service under section 1 of this title, unless the context clearly indicates otherwise.

(5) "Energy conversion efficiency" means the effective use of energy and heat from a combustion process.

(6) "Environmental attributes" means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment such as avoided emissions or other impacts to air, water, or soil that may occur through the plant's displacement of a nonrenewable energy source.

(7) "Existing renewable energy" means renewable energy produced by a plant that came into service prior to or on December 31, 2004.

(8) "Greenhouse gas reduction credits" shall be as defined in section 8006a of this title.

(9) "kW" means kilowatt or kilowatts (AC).

(10) "kWh" means kW hour or hours.

(11) "MW" means megawatt or megawatts (AC).

(12) "MWH" means MW hour or hours.

(13) "New renewable energy" means renewable energy produced by a specific and identifiable plant coming into service after December 31, 2004.

(A) Energy from within a system of generating plants that includes renewable energy shall not constitute new renewable energy, regardless of whether the system includes specific plants that came or come into service after December 31, 2004.

(B) "New renewable energy" also may include the additional energy from an existing renewable energy plant retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kWh output of the plant in excess of an historical baseline established by calculating the average output of that plant for the 10-year period that ended December 31, 2004. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions.

(14) "Plant" means an independent technical facility that generates electricity from renewable energy. A group of newly constructed facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid.

(15) "Plant capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term shall mean the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power.

(16) "Plant owner" means a person who has the right to sell electricity generated by a plant.

(17) "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 (17), 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 (17), no form of nuclear fuel shall be considered renewable.

(C) The only portion of electricity produced by a system of generating resources that shall be considered renewable is that portion generated by a technology that qualifies as renewable under this subdivision (17).

(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.

(E) For the purposes of this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

(18)(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:

(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.

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

(20) "SPEED Facilitator" means an entity appointed by the Board pursuant to subdivision 8005(b)(1) of this title.

(21) "SPEED resources" means contracts for resources in the SPEED program established under section 8005 of this title that meet the definition of renewable energy under this section, whether or not environmental attributes are attached.

(22) "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 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.

(23) "Vermont composite electric utility system" means the combined generation, transmission, and distribution resources along with the combined retail load requirements of the Vermont retail electricity providers. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2005, No. 61, § 2; 2007, No. 92 (Adj. Sess.), § 19; 2009, No. 45, § 2, eff. May 27, 2009; 2009, No. 159 (Adj. Sess.), § 13, eff. July 1, 2012; 2011, No. 47, § 7, eff. May 25, 2011 and § 18; 2011, No. 125 (Adj. Sess.), § 8; 2011, No. 170 (Adj. Sess.), § 2, eff. May 18, 2012 and § 10; 2013, No. 89, § 14.)

[Section 8002 effective January 1, 2017; see also section 8002 effective until January 1, 2017 set out above.]

[Section 8002 effective January 1, 2017; see also section 8002 effective until January 1, 2017 set out above and note set out below.]**§ 8002. Definitions**

As used in this chapter:

(1) "Board" means the Public Service Board under section 3 of this title, except when used to refer to the Clean Energy Development Board.

(2) "Commissioned" or "commissioning" means the first time a plant is put into operation following initial construction or modernization if the costs of modernization are at least 50 percent of the costs that would be required to build a new plant including all buildings and structures technically required for the new plant's operation. However, these terms shall not include activities necessary to establish operational readiness of a plant.

(3) "CPI" means the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(4) "Customer" means a retail electric consumer.

(5) "Department" means the Department of Public Service under section 1 of this title, unless the context clearly indicates otherwise.

(6) "Energy conversion efficiency" means the effective use of energy and heat from a combustion process.

(7) "Environmental attributes" means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment such as avoided emissions or other impacts to air, water, or soil that may occur through the plant's displacement of a nonrenewable energy source.

(8) "Existing renewable energy" means renewable energy produced by a plant that came into service prior to or on December 31, 2004.

(9) "Greenhouse gas reduction credits" shall be as defined in section 8006a of this title.

(10) "Group net metering system" means a net metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility shall be considered in the same group net metering system with buildings of its member municipalities that are located within the service area of the same retail electricity provider that serves the facility.

(11) "kW" means kilowatt or kilowatts (AC).

(12) "kWh" means kW hour or hours.

(13) "MW" means megawatt or megawatts (AC).

(14) "MWH" means MW hour or hours.

(15) "Net metering" means measuring the difference between the electricity supplied to a customer and the electricity fed back by the customer's net metering system during the customer's billing period:

(A) using a single, non-demand meter or such other meter that would otherwise be applicable to the customer's usage but for the use of net metering; or

(B) if the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

(16) "Net metering system" means a plant for generation of electricity that:

(A) is of no more than 500 kW capacity;

(B) operates in parallel with facilities of the electric distribution system;

(C) is intended primarily to offset the customer's own electricity requirements; and

(D)(i) employs a renewable energy source; or

(ii) is a qualified micro-combined heat and power system of 20 kW or fewer that meets the definition of combined heat and power in subsection 8015(b) of this title and uses any fuel source that meets air quality standards.

(17) "New renewable energy" means renewable energy produced by a specific and identifiable plant coming into service after December 31, 2004.

(A) Energy from within a system of generating plants that includes renewable energy shall not constitute new renewable energy, regardless of whether the system includes specific plants that came or come into service after December 31, 2004.

(B) "New renewable energy" also may include the additional energy from an existing renewable energy plant retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kWh output of the plant in excess of an historical baseline established by calculating the average output of that plant for the 10-year period that ended December 31, 2004. If the production of new renewable energy through changes in operations, modification, or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions.

(18) "Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.

(19) "Plant capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term shall mean the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power.

(20) "Plant owner" means a person who has the right to sell electricity generated by a plant.

(21) "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 (21), 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 (21), no form of nuclear fuel shall be considered renewable.

(C) The only portion of electricity produced by a system of generating resources that shall be considered renewable is that portion generated a technology that qualifies as renewable under this subdivision (21).

(D) The Board by rule 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.

(E) In this chapter, renewable energy refers to either "existing renewable energy" or "new renewable energy."

(22)(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:

(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.

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

(24) "SPEED Facilitator" means an entity appointed by the Board pursuant to subdivision 8005(b)(1) of this title.

(25) "SPEED resources" means contracts for resources in the SPEED program established under section 8005 of this title that meet the definition of renewable energy under this section, whether or not environmental attributes are attached.

(26) "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 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.

(27) "Vermont composite electric utility system" means the combined generation, transmission, and distribution resources along with the combined retail load requirements of the Vermont retail electricity providers. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2005, No. 61, § 2; 2007, No. 92 (Adj. Sess.), § 19; 2009, No. 45, § 2, eff. May 27, 2009; 2009, No. 159 (Adj. Sess.), § 13, eff. July 1, 2012; 2011, No. 47, § 7, eff. May 25, 2011 and § 18; 2011, No. 125 (Adj. Sess.), § 8; 2011, No. 170 (Adj. Sess.), § 2, eff. May 18, 2012 and § 10; 2013, No. 89, § 14; 2013, No. 99 (Adj. Sess.), § 3, eff. Jan. 1, 2017.)

§ 8003. Renewable energy pricing

(a) An electric utility, municipal department formed under local charter or chapter 79 of this title, or electric cooperative formed under chapter 81 of this title may implement a renewable energy pricing program under this section for its customers, or offer customers the option of making a voluntary contribution to the Vermont

Clean Energy Development Fund established under section 8015 of this title. Such renewable energy pricing programs may include 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) Repealed.]

(g) The Board shall consider the following factors in deciding whether and upon what conditions to approve a proposed renewable energy 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 energy 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 energy pricing program. (Added 2003, No. 69, § 1, eff. June 17, 2003; amended 2007, No. 92 (Adj. Sess.), § 20; 2009, No. 45, § 4a, eff. May 27, 2009.)

§ 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 this chapter may be met in the aggregate.

(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 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 Board shall provide, by order or rule, the regulations and procedures that are necessary to allow the Board and the Department 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 the Vermont Clean Energy Development Fund established under section 8015 of this title an amount per kWh 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 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; 2007, No. 92 (Adj. Sess.), § 21; 2009, No. 45, § 3, eff. May 27, 2009; 2011, No. 47, §§ 18, 20m(a).)

§ 8005. Sustainably Priced Energy Enterprise Development (SPEED) program; total renewables targets

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

(b) Board; powers and duties. The SPEED program shall be established, by rule, order, or contract, by the Board. As part of the SPEED program, the Board may, and in the case of subdivisions (1), (2), and (5) of this subsection, shall:

(1) Name one or more entities to become engaged in the purchase and resale of electricity generated within the State by means of SPEED resources. An entity appointed under this subdivision shall be known as a SPEED Facilitator.

(2) Issue standard offers for SPEED resources in accordance with section 8005a of this title.

(3) Maximize the benefit to rate payers from the sale of tradeable renewable energy credits or other credits that may be developed in the future, especially with regard to those plants that accept the standard offer issued under subdivision (2) of this subsection.

(4) Encourage retail electricity provider and third party developer sponsorship and partnerships in the development of renewable energy projects.

(5) In accordance with section 8005a of this section, require all Vermont retail electricity providers to purchase from the SPEED Facilitator the power generated by the plants that accept the standard offer required to be issued under section 8005a. For the purpose of this subdivision (5), the Board and the SPEED Facilitator constitute instrumentalities of the State.

(6) 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. It shall be a condition of a standard offer required to be issued under subdivision (2) of this subsection that tradeable renewable energy credits associated with a plant that accepts the standard offer are owned by the retail electric providers purchasing power from the plant, except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such credits to be sold separately at the owner's discretion.

(7) Repealed.]

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

(9) Take such other measures as the Board finds necessary or appropriate to implement SPEED.

(c) VEDA; eligible facilities. Developers of in-state 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) Goals and targets. To advance the goals stated in section 8001 of this title, the following goals and targets are established.

(1) 2012 SPEED goal. The Board shall meet on or before January 1, 2012 and open a proceeding to determine the total amount of SPEED resources that have been supplied to Vermont retail electricity providers or have been issued a certificate of public good. If the Board finds that the amount of SPEED resources coming into service or having been issued a certificate of public good after January 1, 2005 and before July 1, 2012 equals or exceeds total statewide growth in electric retail sales during that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by SPEED resources or would be provided by SPEED resources that have been issued a certificate of public good, or if it finds that the amount of SPEED resources equals or exceeds 10 percent of total statewide electric retail sales for calendar year 2005, the portfolio standards established under this chapter shall not be in force. The Board shall make its determination by January 1, 2013. 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) 2017 SPEED goal. A State goal is to assure that 20 percent of total statewide electric retail sales during the year commencing January 1, 2017 shall be generated by SPEED resources that constitute new renewable energy. On or before January 31, 2018, the Board shall meet and open a proceeding to determine, for the calendar year 2017, the total amount of SPEED resources that were supplied to Vermont retail electricity providers and the total amount of statewide retail electric sales.

(3) Determinations. For the purposes of the determinations to be made under subdivisions (1) and (2) of this subsection (d), the total amount of SPEED resources shall be the amount of electricity produced at SPEED resources owned by or under long-term contract to Vermont retail electricity providers that is new renewable energy.

(4) Total renewables targets. This subdivision establishes, as percentages of annual electric sales, target amounts of total renewable energy within the supply portfolio of each retail electricity provider.

(A) The target amounts of total renewable energy established by this subsection shall be 55 percent of each retail electricity provider's annual electric sales during the year beginning January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

(B) Each retail electricity provider shall manage its supply portfolio to be reasonably consistent with the target amounts established by this subdivision (4). The Board shall consider such consistency during the course of reviewing a retail electricity provider's charges and rates under this title, integrated resource plans under section 218c of this title, and petitions under section 248 (new gas and electric purchases, investments, and facilities) of this title.

(e) Regulations and procedures. The Board shall provide, by order or rule, the regulations and procedures that are necessary to allow the Board and the Department 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 construction of SPEED resources shall be made in a timely manner.

(f) Preapproval. 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.

(g) State; nonliability. The State and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to SPEED, including costs associated with a standard offer contract under this section or section 8005a of this title or any damages arising from breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid.

(h)-(n) Repealed.] (Added 2005, No. 61, § 4; amended 2005, No. 208 (Adj. Sess.), § 15; 2007, No. 92 (Adj. Sess.), § 22; 2009, No. 45, § 4, eff. May 27, 2009; 2009, No. 159 (Adj. Sess.), §§ 3, 4, 5, 8, eff. June 4, 2010; 2011, No. 47, § 8 (eff. May 25, 2011) and § 18; 2011, No. 170 (Adj. Sess.), § 3, eff. May 18, 2012; 2013, No. 34, § 19.)

§ 8005a. SPEED; standard offer program

(a) Establishment. A standard offer program is established within the SPEED program. To achieve the goals of section 8001 of this title, the Board shall issue standard offers for renewable energy plants that meet the eligibility requirements of this section. The Board shall implement these standard offers through the SPEED facilitator.

(b) Eligibility. To be eligible for a standard offer under this section, a plant must constitute a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, must not be a net metering system under section 219a of this title, and must be a new standard offer plant. In this section, "new standard offer plant" means a renewable energy plant that is located in Vermont, that has a plant capacity of 2.2 MW or less, and that is commissioned on or after September 30, 2009.

(c) Cumulative capacity. In accordance with this subsection, the Board shall issue standard offers to new standard offer plants until a cumulative plant capacity amount of 127.5 MW is reached.

(1) Pace. Annually commencing April 1, 2013, the Board shall increase the cumulative plant capacity of the standard offer program (the annual increase) until the 127.5-MW cumulative plant capacity of this subsection is reached.

(A) Annual amounts. The amount of the annual increase shall be five MW for the three years commencing April 1, 2013, 7.5 MW for the three years commencing April 1, 2016, and 10 MW commencing April 1, 2019.

(B) Blocks. Each year, a portion of the annual increase shall be reserved for new standard offer plants proposed by Vermont retail electricity providers (the provider block), and the remainder shall be reserved for new standard offer plants proposed by persons who are not providers (the independent developer block).

(i) The portion of the annual increase reserved for the provider block shall be 10 percent for the three years commencing April 1, 2013, 15 percent for the three years commencing April 1, 2016, and 20 percent commencing April 1, 2019.

(ii) If the provider block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and shall be made available to new standard offer plants proposed by persons who are not providers.

(iii) If the independent developer block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and:

(I) shall be made available to new standard offer plants proposed by persons who are not providers; and

(II) may be made available to a provider following a written request and specific proposal submitted to and approved by the Board.

(C) Adjustment; greenhouse gas reduction credits. The Board shall adjust the annual increase to account for greenhouse gas reduction credits by multiplying the annual increase by one minus the ratio of the prior year's greenhouse gas reduction credits to that year's statewide retail electric sales.

(i) The amount of the prior year's greenhouse gas reduction credits shall be determined in accordance with subdivision 8006a(a) of this title.

(ii) The adjustment in the annual increase shall be applied proportionally to the independent developer block and the provider block.

(iii) Greenhouse gas reduction credits used to diminish a provider's obligation under section 8004 of this title may be used to adjust the annual increase under this subsection (c).

(2) Technology allocations. The Board shall allocate the 127.5-MW cumulative plant capacity of this subsection among different categories of renewable energy technologies. These categories shall include at least each of the following: methane derived from a landfill; solar power; wind power with a plant capacity of 100 kW or less; wind power with a plant capacity greater than 100 kW; hydroelectric power; and biomass power using a fuel other than methane derived from an agricultural operation or landfill.

(d) Plants outside cumulative capacity. The following categories of plants shall not count toward the cumulative capacity amount of subsection (c) of this section, and the Board shall make standard offers available to them provided that they are otherwise eligible for such offers under this section:

(1) Plants using methane derived from an agricultural operation.

(2) New standard offer plants that the Board determines will have sufficient benefits to the operation and management of the electric grid or a provider's portion thereof because of their design, characteristics, location, or any other discernible benefit. To enhance the ability of new standard offer plants to mitigate transmission and distribution constraints, the Board shall require Vermont retail electricity providers and companies that own or operate electric transmission facilities within the State to make sufficient information concerning these constraints available to developers who propose new standard offer plants.

(A) By March 1, 2013, the Board shall develop a screening framework or guidelines that will provide developers with adequate information regarding constrained areas in which generation having particular characteristics is reasonably

likely to provide sufficient benefit to allow the generation to qualify for eligibility under this subdivision (2).

(B) Once the Board develops the screening framework or guidelines under subdivision (2)(A) of this subsection (d), the Board shall require Vermont transmission and retail electricity providers to make the necessary information publicly available in a timely manner, with updates at least annually.

(C) Nothing in this subdivision shall require the disclosure of information in contravention of federal law.

(e) Term. The term of a standard offer required by this section shall be 10 to 20 years, except that the term of a standard offer for a plant using solar power shall be 10 to 25 years.

(f) Price. The categories of renewable energy for which the Board shall set standard offer prices shall include at least each of the categories established pursuant to subdivision (c)(2) of this section. The Board by order shall determine and set the price paid to a plant owner for each kWh generated under a standard offer required by this section, with a goal of ensuring timely development at the lowest feasible cost. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25.

(1) Market-based mechanisms. For new standard offer projects, the Board shall use a market-based mechanism, such as a reverse auction or other procurement tool, to obtain up to the authorized amount of a category of renewable energy, if it first finds that use of the mechanism is consistent with:

(A) applicable federal law; and

(B) the goal of timely development at the lowest feasible cost.

(2) Avoided cost.

(A) The price paid for each category of renewable energy shall be the avoided cost of the Vermont composite electric utility system if the Board finds either of the following:

(i) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is inconsistent with applicable federal law.

(ii) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is reasonably likely to result in prices higher than the prices that would apply under this subdivision (2).

(B) For the purpose of this subsection (f), the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase through the standard offer, such providers would obtain

from distributed renewable generation that uses the same generation technology as the category of renewable energy for which the Board is setting the price. For the purpose of this subsection (f), the term "avoided cost" also includes the Board's consideration of each of the following:

(i) The relevant cost data of the Vermont composite electric utility system.

(ii) The terms of the contract, including the duration of the obligation.

(iii) The availability, during the system's daily and seasonal peak periods, of capacity or energy purchased through the standard offer, and the estimated savings from mitigating peak load.

(iv) The relationship of the availability of energy or capacity purchased through the standard offer to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(v) The costs or savings resulting from variations in line losses and other impacts to the transmission or distribution system from those that would have existed in the absence of purchases through the standard offer.

(vi) The supply and cost characteristics of plants eligible to receive the standard offer.

(3) Price determinations. The Board shall take all actions necessary to determine the pricing mechanism and implement the pricing requirements of this subsection (f) no later than March 1, 2013 for effect on April 1, 2013. Annually thereafter, the Board shall review the determinations previously made under this subsection to decide whether they should be modified in any respect in order to achieve the goal and requirements of this subsection. Any such modification shall be effective on a prospective basis commencing one month after it has been made. Once a pricing determination made or modified under this subsection goes into effect, subsequently executed standard offer contracts shall comply with the most recently effective determination.

(4) Price stability. Once a plant owner has executed a contract for a standard offer under this section, the plant owner shall continue to receive the price agreed on in that contract regardless of whether the Board subsequently changes the price applicable to the plant's category of renewable energy.

(g) Qualifying existing agricultural plants. Notwithstanding any other provision of this section, on and after June 8, 2010, a standard offer shall be available for a qualifying existing plant as defined in Sec. 3 of No. 159 of the Acts of the 2009 Adj. Sess. (2010)(Act 159). The provisions of 30 V.S.A. § 8005(b)(2), as they existed on

June 4, 2010, the effective date of Act 159, shall govern a standard offer under this subsection. Standard offers for these plants shall not be subject to subsection (c) of this section (cumulative capacity; new standard offer plants).

(h) Application process. The Board shall administer the process of applying for and obtaining a standard offer contract in a manner that ensures that the resources and capacity of the standard offer program are used for plants that are reasonably likely to achieve commissioning.

(i) Interconnection application. No contract under this section for a new standard offer plant shall be executed unless and until the plant owner submits a complete application to interconnect the plant to the subtransmission or distribution system of the applicable retail electricity provider.

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

(1) For the purpose of this subsection, the requirements of the program shall include commissioning of all new standard offer plants, except plants using methane derived from an agricultural operation, within the following periods after execution of the plant's standard offer contract:

(A) 24 months if the plant is solar power or is wind power with a plant capacity of 100 kW or less; and

(B) 36 months if the plant uses a fuel source not described in subdivision 1(A) of this subsection (j) or is wind power of greater than 100 kW capacity.

(2) At the request of a plant owner, the Board may extend a period described in subdivision (1) of this subsection (j) if it finds that the plant owner has proceeded diligently and in good faith and that commissioning of the plant has been delayed because of litigation or appeal or because of the need to obtain an approval the timing of which is outside the Board's control.

(k) Executed standard offer contracts; transferability; allocation of benefits and costs. With respect to executed contracts for standard offers under this section:

(1) A contract shall be transferable. The contract transferee shall notify the SPEED Facilitator of the contract transfer within 30 days of transfer.

(2) The SPEED Facilitator shall distribute the electricity purchased to the Vermont retail electricity providers at the price paid to the plant owners, allocated to the providers based on their pro rata share of total Vermont retail kWh sales for the

previous calendar year, and the Vermont retail electricity providers shall accept and pay the SPEED Facilitator for the electricity. However, during any given calendar year:

(A) Calculation of pro rata shares under this subdivision (2) shall include an adjustment in the allocation to a provider if one or more of the provider's customers created greenhouse gas reduction credits under section 8006a of this title that are used to reduce the size of the annual increase under subdivision (c)(1)(C)(adjustment; greenhouse gas reduction credits) of this section. The adjustment shall ensure that any and all benefits or costs from the use of such credits flow to the provider whose customers created the credits. The savings that a provider realizes as a result of this application of greenhouse gas reduction credits shall be passed on proportionally to the customers that created the credits.

(B) A retail electricity provider shall be exempt and wholly relieved from the requirements of this subdivision and subdivision 8005(b)(5) (requirement to purchase standard offer power) of this title if, during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers.

(3) The SPEED Facilitator shall transfer the environmental attributes, including any tradeable renewable energy credits, of electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection (k), except that in the case of a plant using methane from agricultural operations, the plant owner shall retain such attributes and credits to be sold separately at the owner's discretion.

(4) The SPEED Facilitator shall transfer all capacity rights attributable to the plant capacity associated with the electricity purchased under standard offer contracts to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (2) of this subsection (k).

(5) All reasonable costs of a Vermont retail electricity provider incurred under this subsection shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the Board shall appropriately account for any credits received under subdivisions (3) and (4) of this subsection (k). Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the board.

(l) SPEED Facilitator; expenses; payments. With respect to standard offers under this section, the Board shall by rule or order:

(1) Determine a SPEED Facilitator's reasonable expenses arising from its role and the allocation of the expenses among plant owners and Vermont retail electricity providers.

(2) Determine the manner and timing of payments by a SPEED Facilitator to plant owners for energy purchased under an executed contract for a standard offer.

(3) Determine the manner and timing of payments to the SPEED Facilitator by the Vermont retail electricity providers for energy distributed to them under executed contracts for standard offers.

(4) Establish reporting requirements of a SPEED Facilitator, a plant owner, and a Vermont retail electricity provider.

(m) Metering. With respect to standard offers under this section, the Board shall make rule revisions concerning metering and the allocation of metering costs as needed to implement the standard offer requirements of this section.

(n) Wood biomass. Wood biomass resources that would otherwise constitute qualifying SPEED resources may receive a standard offer under this section only if they have a design system efficiency (the sum of full load design thermal output and electric output divided by the heat input) of at least 50 percent.

(o) Voluntary contracts. The existence of a standard offer under this section shall not preclude a voluntary contract between a plant owner and a Vermont retail electricity provider on terms that may be different from those under the standard offer. A plant owner who declines a voluntary contract may still accept a standard offer under this section.

(p) Existing hydroelectric plants. Notwithstanding any contrary requirement of this section, no later than January 15, 2013, the Board shall make a standard offer contract available to existing hydroelectric plants in accordance with this subsection.

(1) In this subsection:

(A) "Existing hydroelectric plant" means a hydroelectric plant of five MW plant capacity or less that is located in the State, that was in service as of January 1, 2009, that is a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, and that does not have an agreement with the Board's purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and board rules adopted under subdivision (8). The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement has expired, provided that the expiration date is prior to December 31, 2015.

(B) "LIHI" means the Low-Impact Hydropower Institute of Portland, Maine.

(2) The term of a standard offer contract under this subsection shall be 10 or 20 years, at the election of the plant owner.

(3) Unless inconsistent with applicable federal law, the price of a standard offer contract shall be the lesser of the following:

(A) $0.08 per kWh, adjusted for inflation annually commencing January 15, 2013 using the CPI; or

(B) The sum of the following elements:

(i) a two-year rolling average of the ISO New England Inc. (ISO-NE) Vermont zone hourly locational marginal price for energy;

(ii) a two-year rolling average of the value of the plant's capacity in the ISO-NE forward capacity market;

(iii) the value of avoided line losses due to the plant as a fixed increment of the energy and capacity values;

(iv) the value of environmental attributes, including renewable energy credits; and

(v) the value of a 10- or 20-year contract.

(4) The Board shall determine the price to be paid under this section no later than January 15, 2013.

(A) Annually by January 15 commencing in 2014, the Board shall recalculate and adjust the energy and capacity elements of the price under subdivisions (3)(B)(i) and (ii) of this subsection (p). The recalculated and adjusted energy and capacity elements shall apply to all contracts executed under this subdivision, whether or not the contracts were executed prior to the adjustments.

(B) With respect to the price elements specified in subdivisions (3)(B)(iii) (avoided line losses), (iv) (environmental attributes), and (v) (value of long-term contract) of this subsection (p):

(i) These elements shall remain fixed at their values at the time a contract is signed for the duration of the contract, except that the Board may periodically adjust the value of environmental attributes that are applicable to an executed contract based upon whether the plant becomes certified by LIHI or loses such certification.

(ii) The Board annually may adjust these elements for inclusion in contracts that are executed after the date any such adjustments are made.

(5) In addition to the limits specified in subdivision (3) of this subsection (p), in no event shall an existing hydroelectric plant receive a price in one year higher than its price in the previous year, adjusted for inflation using the CPI, except that if a plant becomes certified by LIHI, the Board may add to the price any incremental increase in the value of the plant's environmental attributes resulting from such certification.

(6) Once a plant owner has executed a contract for a standard offer under this subsection (p), the plant owner shall continue to receive the pricing terms agreed on in that contract regardless of whether the Board subsequently changes any pricing terms under this subsection.

(7) Capacity of existing hydroelectric plants executing a standard offer contract under this subsection shall not count toward the cumulative capacity amount of subsection (c) of this section.

(q) Allocation of regulatory costs. The Board and Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and research services in conjunction with implementing their responsibilities under this section. In lieu of allocating such costs pursuant to subsection 21(a) of this title, the Board or Department may allocate the expense in the same manner as the SPEED Facilitator's costs under subdivision (l)(1) of this section. (Added 2011, No. 170 (Adj. Sess.), § 4, eff. May 18, 2012; amended 2013, No. 34, § 20.)

§ 8005b. Renewable energy programs; biennial report

(a) On or before January 15, 2013 and no later than every second January 15 thereafter through January 15, 2033, the Board shall file a report with the General Assembly in accordance with this section. The Board shall prepare the report in consultation with the Department. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the report to be made under this subsection.

(b) The report under this section shall include at least each of the following:

(1) The retail sales, in kWh, of electricity in Vermont during the preceding calendar year. The report shall include the statewide total and the total sold by each retail electricity provider.

(2) The amount of SPEED resources owned by the Vermont retail electricity providers, expressed as a percentage of retail kWh sales. The report shall include the statewide total and the total owned by each retail electricity provider and shall discuss the progress of each provider toward achieving the goals and targets of subsection 8005(d)(SPEED) of this title. The report to be filed under this subsection on or before January 15, 2019 shall discuss and attach the Board's determination under subdivision 8005(d)(2)(2017 SPEED goal) of this title.

(3) A summary of the activities of the SPEED program under section 8005 of this title, including the name, location, plant capacity, and average annual energy generation, of each SPEED resource within the program.

(4) A summary of the activities of the standard offer program under section 8005a of this title, including the number of plants participating in the program, the prices paid by the program, and the plant capacity and average annual energy generation of the participating plants. The report shall present this information as totals for all participating plants and by category of renewable energy technology. The report also shall identify the number of applications received, the number of participating plants under contract, and the number of participating plants actually in service.

(5) An assessment of the energy efficiency and renewable energy markets and recommendations to the General Assembly regarding strategies that may be necessary to encourage the use of these resources to help meet upcoming supply requirements.

(6) An assessment of whether Vermont retail electric rates are rising faster than inflation as measured by the CPI, and a comparison of Vermont's electric rates with electric rates in other New England states. If statewide average rates have risen more than 0.2 percentage points per year faster than inflation over the preceding two or more years, the report shall include an assessment of the contributions to rate increases from various sources, such as the costs of energy and capacity, costs due to construction of transmission and distribution infrastructure, and costs due to compliance with the requirements of section 8005a (SPEED program; standard offer) of this title. Specific consideration shall be given to the price of renewable energy and the diversity, reliability, availability, dispatch flexibility, and full life cycle cost, including environmental benefits and greenhouse gas reductions, on a net present value basis of renewable energy resources available from suppliers. The report shall include any recommendations for statutory change that arise from this assessment. If electric rates have increased primarily due to cost increases attributable to nonrenewable sources of electricity or to the electric transmission or distribution systems, the report shall include a recommendation regarding whether to increase the size of the annual increase described in subdivision 8005a(c)(1)(standard offer; cumulative capacity; pace) of this title.

(7)(A) An assessment of whether strict compliance with the requirements of section 8005a (SPEED program; standard offer) of this title:

(i) has caused one or more providers to raise its retail rates faster over the preceding two or more years than statewide average retail rates have risen over the same time period;

(ii) will cause retail rate increases particular to one or more providers; or

(iii) will impair the ability of one or more providers to meet the public's need for energy services in the manner set forth under subdivision 218c(a)(1) of this title (least-cost integrated planning).

(B) Based on this assessment, consideration of whether statutory changes should be made to grant providers additional flexibility in meeting requirements of section 8005a of this title.

(8) Any recommendations for statutory change related to sections 8005 and 8005a of this title. (Added 2011, No. 170 (Adj. Sess.), § 6.)

§ 8006. Tradeable credits

(a) The 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 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 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; amended 2011, No. 47, § 18.)

§ 8006a. Greenhouse gas reduction credits

(a) Standard offer adjustment. In accordance with this section, greenhouse gas reduction credits generated by an eligible ratepayer shall result in an adjustment of the standard offer under subdivision 8005a(c)(1) of this title (cumulative capacity; pace). For the purpose of adjusting the standard offer under subdivision 8005a(c)(1) of this title, the amount of a year's greenhouse gas reduction credits shall be the lesser of the following:

(1) The amount of greenhouse gas reduction credits created by the eligible ratepayers served by all providers.

(2) The providers' annual retail electric sales during that year to those eligible ratepayers creating greenhouse gas reduction credits.

(b) Definitions. In this section:

(1) "Eligible ratepayer" means a customer of a Vermont retail electricity provider who takes service at 115 kilovolts and has demonstrated to the Board that it has a comprehensive energy and environmental management program. Provision of the

customer's certification issued under standard 14001 (environmental management systems) of the International Organization for Standardization (ISO) shall constitute such a demonstration.

(2) "Eligible reduction" means a reduction in non-energy-related greenhouse gas emissions from manufacturing processes at an in-state facility of an eligible ratepayer, provided that each of the following applies:

(A) The reduction results from a specific project undertaken by the eligible ratepayer at the in-state facility after January 1, 2012.

(B) The specific project reduces or avoids greenhouse gas emissions above and beyond any reductions of such emissions required by federal and State statutes and rules.

(C) The reductions are quantifiable and verified by an independent third party as approved by the Board. Such independent third parties shall be certified by a body accredited by the American National Standards Institute (ANSI) as having a certification program that meets the ISO standards applicable to verification and validation of greenhouse gas assertions.

(3) "Greenhouse gas" shall be as defined under 10 V.S.A. § 552.

(4) "Greenhouse gas reduction credit" means a credit for eligible reductions, calculated in accordance with subsection (c) of this section and expressed as a kWh credit.

(c) Calculation. Greenhouse gas reduction credits shall be calculated as follows:

(1) Eligible reductions shall be quantified in metric tons of CO2 equivalent, in accordance with the methodologies specified under 40 C.F.R. part 98, and may be counted annually for the life of the specific project that resulted in the reduction.

(2) Metric tons of CO2 equivalent quantified under subdivision (1) of this subsection shall be converted into units of energy through calculation of the equivalent number of kWh of generation by renewable energy plants, other than biomass, that would be required to achieve the same level of greenhouse gas emission reduction through the displacement of market power purchases. For the purpose of this subdivision, the value of the avoided greenhouse gas emissions shall be based on the aggregate greenhouse gas emission characteristics of system power in the regional transmission area overseen by the Independent System Operator of New England (ISO-NE).

(d) Reporting. An eligible ratepayer shall report to the Board annually on each specific project undertaken to create eligible reductions. The Board shall specify the required contents of such reports, which shall be publicly available.

(e) Savings. A provider shall pass on savings that it realizes through greenhouse gas reduction credits proportionally to the eligible ratepayers generating the credits. (Added 2011, No. 170 (Adj. Sess.), § 8, eff. May 18, 2012.)

Subsection (a) effective until January 1, 2017; see also subsection (a) set out below.

§ 8007. Small renewable energy plants; simplified procedures

Subsection (a) effective until January 1, 2017; see also subsection (a) set out below.

(a) The same application form, rules, and procedures that the Board applies to net metering systems of 150 kilowatts (kW) or less under sections 219a and 248 of this title shall apply to the review under section 248 of this title of any renewable energy plant with a plant capacity of 150 kW or less and to the interconnection of such a plant with the system of a Vermont retail electricity provider. This requirement includes any waivers of criteria under section 248 of this title made pursuant to section 219a of this title.

Subsection (a) effective January 1, 2017; see also subsection (a) set out above.

(a) The same application form, rules, and procedures that the Board applies to net metering systems of 150 kilowatts (kW) or less under sections 248 and 8010 of this title shall apply to the review under section 248 of this title of any renewable energy plant with a plant capacity of 150 kW or less and to the interconnection of such a plant with the system of a Vermont retail electricity provider. This requirement includes any waivers of criteria under section 248 of this title made pursuant to section 8010 of this title.

(b) With respect to renewable energy plants that have a plant capacity that is greater than 150 kW and is 2.2 MW or less, the Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for such a plant under the provisions of section 248 of this title, and the interconnection of such a plant with the system of a Vermont retail electricity provider.

(1) In developing such rules or orders, the Board:

(A) Shall waive the requirements of section 248 of this title that are not applicable to such a plant, including, for a plant that is not owned by a Vermont retail electricity provider, criteria that are generally applicable to such a provider.

(B) May modify notice and hearing requirements of this title as it deems appropriate.

(C) Shall simplify the petition and review process as appropriate.

(2) Notwithstanding 1 V.S.A. §§ 213 and 214, a petitioner whose petition under section 248 of this title is pending as of the effective date of a Board rule or order under subsection (b) of this section may elect to apply the standards and procedures of such a rule or order to the pending petition if the petition pertains to a renewable energy plant with a plant capacity that is greater than 150 kW and is 2.2 MW or less. (Added 2009, No. 159 (Adj. Sess.), § 6, eff. June 4, 2010; 2013, No. 99 (Adj. Sess.), § 6, eff. Jan. 1, 2017.)

§ 8008. Agreements; attribute revenues; disposition by Board

(a) For the purpose of this section, "the revenues" means revenues that are from the sale, through tradeable renewable energy certificates or other means, of environmental attributes associated with the generation of renewable energy from a system of generation resources with a total plant capacity greater than 200 MW and that are received by a Vermont retail electricity provider on and after May 1, 2012, pursuant to an agreement, contract, memorandum of understanding, or other transaction in which a person or entity agrees to transfer such revenues or rights associated with such attributes to the provider.

(b) After notice and opportunity for hearing, the Board shall determine the disposition, allocation, and use of the revenues in a manner that promotes State energy policy as stated in section 202a of this title and the goals of this chapter and supports achievement of the greenhouse gas reduction and building efficiency goals contained in 10 V.S.A. §§ 578(a) and 581.

(1) The Board shall provide notice of the proceeding to each Vermont retail electricity provider, the Department, the Clean Energy Development Board under 10 V.S.A. § 6523, each fuel efficiency service provider appointed under subsection 203a(b) of this title, each energy efficiency entity appointed under subdivision 209(d)(2) of this title, the Institute for Energy and the Environment at the Vermont Law School, the Transportation Research Center at the University of Vermont, and any other persons or entities that have requested notice. The Board may provide notice to additional persons or entities.

(2) In determining the disposition, allocation, and use of the revenues, the Board shall consider each of the following potential uses of the revenues:

(A) Development of in-state renewable energy resources.

(B) Deposit into the Clean Energy Development Fund for use pursuant to section 8015 of this title.

(C) Deposit into the Fuel Efficiency Fund for use pursuant to section 203a of this title.

(D) Deposit into the Electric Efficiency Fund for use pursuant to section 209(d) of this title.

(E) Application, for the benefit of ratepayers, to the revenue requirement of one or more Vermont retail electricity providers.

(F) Development of transportation alternatives to vehicles that use gasoline such as electric or natural gas vehicles and supporting infrastructure and the coordination of such development with so-called "smart grid" electric transmission and distribution networks.

(G) Any other uses that support the statutory policy and goals referenced in this subsection (b).

(c) A Vermont retail electricity provider shall notify the Board within 30 days of the first receipt of the revenues pursuant to an agreement, contract, memorandum of understanding, or other transaction under which it will receive the revenues. The Board will open a proceeding under this section promptly on receipt of such notice and shall issue a final order in the proceeding within 12 months of such receipt.

(d) Any of the revenues that are received prior to completion of the 12-month period described in subsection (c) of this section shall be credited, for the benefit of ratepayers, against the revenue requirement of the Vermont retail electricity provider that receives the revenues. (Added 2009, No. 159 (Adj. Sess.), § 13b, eff. June 4, 2010; amended 2011, No. 47, §§ 18, 20m(a).)

§ 8009. Baseload renewable power portfolio requirement

(a) In this section:

(1) "Baseload renewable power" means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) "Baseload renewable power portfolio requirement" means an annual average of 175,000 MWh of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) "Biomass" means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of subdivision 8002(17) of this title.

(4) [Repealed.]

(b) Notwithstanding subsection 8004(a) and subdivision 8005(d)(1) of this title, commencing November 1, 2012, the electricity supplied by each Vermont retail electricity provider to its customers shall include the provider's pro rata share of the

baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, 2022.

(c) A plant used to satisfy the baseload renewable power portfolio requirement shall be a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292.

(d) The Board shall determine the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. In this subsection, the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a source using the same generation technology as the proposed plant. In this subsection, the term "avoided cost" also includes the Board's consideration of each of the following:

(1) The relevant cost data of the Vermont composite electric utility system.

(2) The terms of the potential contract, including the duration of the obligation.

(3) The availability, during the system's daily and seasonal peak periods, of capacity or energy from a proposed plant.

(4) The relationship of the availability of energy or capacity from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(5) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the proposed plant.

(6) The supply and cost characteristics of the proposed plant, including the costs of operation and maintenance of an existing plant during the term of a proposed contract.

(e) In determining the price under subsection (d) of this section, the Board may require a plant proposed to be used to satisfy the baseload renewable power portfolio requirement to produce such information as the Board reasonably deems necessary.

(f) With respect to a plant used to satisfy the baseload renewable power portfolio requirement:

(1) The SPEED Facilitator shall purchase the baseload renewable power, and the electricity purchased and any associated costs shall be allocated by the SPEED Facilitator to the Vermont retail electricity providers based on their pro rata share of

total Vermont retail kWh sales for the previous calendar year, and the Vermont retail electricity providers shall accept and pay those costs.

(2) Any tradeable renewable energy credits attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(3) All capacity rights attributable to the plant capacity associated with the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection.

(4) All reasonable costs of a Vermont retail electricity provider incurred under this section shall be included in the provider's revenue requirement for purposes of ratemaking under sections 218, 218d, 225, and 227 of this title. In including such costs, the Board shall appropriately account for any credits received under subdivision (2) of this subsection. Costs included in a retail electricity provider's revenue requirement under this subdivision shall be allocated to the provider's ratepayers as directed by the Board.

(g) A retail electricity provider shall be exempt from the requirements of this section if, and for so long as, one-third of the electricity supplied by the provider to its customers is from a plant that produces electricity from woody biomass.

(h) The Board may issue rules or orders to carry out this section.

(i) The State and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to the baseload renewable power portfolio requirement or a plant used to satisfy such requirement, including costs associated with a contract related to such a plant or any damages arising from the breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid. For the purpose of this section, the Board and the SPEED Facilitator constitute instrumentalities of the State. (Added 2011, No. 47, § 11; amended 2011, No. 170 (Adj. Sess.), § 9.)

§ 8010. Self-generation and net metering

(a) A customer may install and operate a net metering system in accordance with this section and the rules adopted under this section.

(b) A net metering customer shall pay the same rates, fees, or other payments and be subject to the same conditions and requirements as all other purchasers from the interconnecting retail electricity provider in the same rate-class, except as this

section or the rules adopted under this section may provide, and except for appropriate and necessary conditions approved by the Board for the safety and reliability of the electric distribution system.

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

(1) The rules shall establish and maintain a net metering program that:

(A) advances the goals and total renewables targets of this chapter and the goals of 10 V.S.A. § 578 (greenhouse gas reduction) and is consistent with the criteria of subsection 248(b) of this title;

(B) achieves a level of deployment that is consistent with the recommendations of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title, unless the Board determines that this level is inconsistent with the goals and targets identified in subdivision (1)(A) of this subsection. Under this subdivision (B), the Board shall consider the Plans most recently issued at the time the Board adopts or amends the rules;

(C) to the extent feasible, ensures that net metering does not shift costs included in each retail electricity provider's revenue requirement between net metering customers and other customers;

(D) accounts for all costs and benefits of net metering, including the potential for net metering to contribute toward relieving supply constraints in the transmission and distribution systems and to reduce consumption of fossil fuels for heating and transportation;

(E) ensures that all customers who want to participate in net metering have the opportunity to do so;

(F) balances, over time, the pace of deployment and cost of the program with the program's impact on rates; and

(G) accounts for changes over time in the cost of technology.

(2) The rules shall include provisions that govern:

(A) whether there is a limit on the cumulative plant capacity of net metering systems to be installed over time and what that limit is, if any;

(B) the transfer of certificates of public good issued for net metering systems and the abandonment of net metering systems;

(C) the respective duties of retail electricity providers and net metering customers;

(D) the electrical safety, power quality, interconnection, and metering of net metering systems;

(E) the formation of group net metering systems, the resolution of disputes between group net metering customers and the interconnecting provider, and the billing, crediting, and disconnection of group net metering customers by the interconnecting provider;

(F) the amount of the credit to be assigned to each kWh of electricity generated by a net metering customer in excess of the electricity supplied by the interconnecting provider to the customer, the manner in which the customer's credit will be applied on the customer's bill, and the period during which a net metering customer must use the credit, after which the credit shall revert to the interconnecting provider; and

(G) the ownership and transfer of the environmental attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits.

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures, the rules:

(A) may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title;

(B) may modify notice and hearing requirements of this title as the Board considers appropriate;

(C) shall seek to simplify the application and review process as appropriate; and

(D) with respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(4) This section does not require the Board to adopt identical requirements for the service territory of each retail electricity provider.

(5) Each retail electricity provider shall implement net metering in its service territory through a rate schedule that is consistent with this section and the rules adopted under this section and is approved by the Board.

(d) On or before January 15, 2020 and every third January 15 thereafter, the Department shall submit to the Board a report that evaluates the current state of net metering in Vermont. The Department shall make this report publicly available. The report shall:

(1) analyze the current pace of net metering deployment, both statewide and within the service territory of each retail electricity provider;

(2) after considering the goals and policies of this chapter, of 10 V.S.A. § 578 (greenhouse gas reduction), of section 202a (State energy policy) of this title, and of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title, recommend the future pace of net metering deployment statewide and within the service territory of each provider;

(3) analyze the existence and degree of cross-subsidy between net metering customers and other customers on a statewide and on an individual provider basis;

(4) evaluate the effect of net metering on retail electricity provider infrastructure and revenue;

(5) evaluate the benefits to net metering customers of connecting to the provider's distribution system;

(6) analyze the economic and environmental benefits of net metering, and the short- and long-term impacts on rates, both statewide and for each provider;

(7) analyze the reliability and supply diversification costs and benefits of net metering;

(8) evaluate the ownership and transfer of the environmental attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits; and

(9) examine and evaluate best practices for net metering identified from other states. (Added 2013, No. 99 (Adj. Sess.), § 4, eff. Jan. 1, 2017.)

§ 8011. -8014. [Reserved for future use] (Added 2011, No. 47, § 20m, eff. May 25, 2011.)

Subchapter 2: Clean Energy Development Fund

§ 8015. Vermont Clean Energy Development Fund

(a) Creation of Fund.

(1) There is established the Vermont Clean Energy Development Fund to consist of each of the following:

(A) The proceeds due the State under the terms of the memorandum of understanding between the Department of Public Service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under Public Service Board docket 6812; together with the proceeds due the State under the terms of any

subsequent memoranda of understanding entered before July 1, 2005 between the Department of Public Service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.

(B) Any other monies that may be appropriated to or deposited into the Fund.

(2) Balances in the Fund shall be expended solely for the purposes set forth in this subchapter and shall not be used for the general obligations of government. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited in the Fund. This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) Definitions. For purposes of this section, the following definitions shall apply:

(1) "Clean energy resources" means electric power supply and demand-side resources, or thermal energy or geothermal resources, that are "combined heat and power facilities," "cost-effective energy efficiency resources," or "renewable energy" resources.

(2) "Combined heat and power (CHP) facility" means a generator that sequentially produces both electric power and thermal energy from a single source or fuel. In order for a fossil fuel-based CHP system to participate in the clean energy program set out in this section, at least 20 percent of its 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 it must meet air quality standards established by the Agency of Natural Resources.

(3) "Cost-effective energy efficiency" means those energy efficiency and conservation measures that would qualify as part of a utility's least-cost integrated plan under section 218c of this title or that would be an eligible expenditure under section 209(d) of this title.

(4) "Emerging energy-efficient technologies" means technologies that are both precommercial but near commercialization and that have already entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) "Renewable energy" has the meaning established under subdivision 8002(17) of this title, and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of Fund. The purposes of the Fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources for the long-term benefit of Vermont consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The Fund also may be used to support natural gas and electric vehicles in accordance with subdivisions (d)(1)(K) and (L) of this section, respectively. The General Assembly expects and intends that the Public Service Board, Public Service Department, and the State's power and efficiency utilities will actively implement the authority granted in this title to acquire all reasonably available cost-effective energy efficiency resources for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations.

(2) If during a particular year, the Commissioner of Public Service determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the Commissioner shall consult with the Clean Energy Development Board, and shall consider transferring funds to the Energy Efficiency Fund established under the provisions of subsection 209(d) of this title. Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

(3) A grant in lieu of a solar energy tax credit in accordance with 32 V.S.A. § 5930z(f). Of any Fund monies unencumbered by such grants, the first $2.3 million shall fund the Small-scale Renewable Energy Incentive Program described in subdivision (1)(E)(ii) of this subsection.

(4) A sum equal to the cost for the 2010 and preceding tax years of the business solar energy income tax credits authorized in 32 V.S.A. §§ 5822(d) and 5930z(a), net of any such costs for which a transfer has already been made under this subdivision and of the cost of any credits in lieu of which the taxpayer elects to receive a grant, shall be transferred from the Clean Energy Development Fund to the General Fund.

(e) Management of Fund.

(1) This Fund shall be administered by the Department of Public Service to facilitate the development and implementation of clean energy resources. The Department is authorized to expend monies from the Clean Energy Development Fund in accordance with this section. The Commissioner of the Department shall make all decisions necessary to implement this section and administer the Fund except those decisions committed to the Clean Energy Development Board under this subsection. The Department shall ensure an open public process in the administration of the Fund for the purposes established in this subchapter.

(2) During fiscal years after FY 2006, up to five percent of amounts appropriated to the Public Service Department from the Fund may be used for administrative costs related to the Clean Energy Development Fund.

(3) There is created the Clean Energy Development Board, which shall consist of seven persons appointed in accordance with subdivision (4) of this subsection.

(A) The Clean Energy Development Board shall have decision-making and approval authority with respect to the plans, budget, and program designs described in subdivisions (7)(B)-(D) of this subsection. The Clean Energy Development Board shall function in an advisory capacity to the Commissioner on all other aspects of this section's implementation.

(B) During a Board member's term and for a period of one year after the member leaves the Board, the Clean Energy Development Fund shall not make any award of funds to and shall confer no financial benefit on a company or corporation of which the member is an employee, officer, partner, proprietor, or Board member or of which the member owns more than 10 percent of the outstanding voting securities. This prohibition shall not apply to a financial benefit that is available to any person and is not awarded on a competitive basis or offered only to a limited number of persons.

(4) The Commissioner of Public Service shall appoint three members of the Clean Energy Development Board, and the chairs of the House and Senate Committees on Natural Resources and Energy each shall appoint two members of the Clean Energy Development Board. The terms of the members of the Clean Energy Development Board shall be four years, except that when appointments to this Board are made for the first time after the effective date of this act, each appointing authority shall appoint one member for a two-year term and the remaining members for four-year terms. When a vacancy occurs in the Board during the term of a member, the authority who appointed that member shall appoint a new member for the balance of the departing member's term.

(5) Except for those members of the Clean Energy Development Board otherwise regularly employed by the State, the compensation of the members shall be the same as that provided by 32 V.S.A. § 1010(a).

(6) In performing its duties, the Clean Energy Development Board may utilize the legal and technical resources of the Department of Public Service. The Department of Public Service shall provide the Clean Energy Development Board with administrative services.

(7) The Department shall perform each of the following:

(A) By January 15 of each year, provide to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the House Committee on Commerce and Economic Development a report for the fiscal year ending the preceding June 30 detailing the activities undertaken, the revenues collected, and the expenditures made under this subchapter. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the report to be made under this subdivision.

(B) Develop, and submit to the Clean Energy Development Board for review and approval, a five-year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process and shall be consistent with State energy planning principles.

(C) Develop, and submit to the Clean Energy Development Board for review and approval, an annual operating budget.

(D) Develop, and submit to the Clean Energy Development Board for review and approval, proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies). Prior to any approval of a new program or of a substantial modification to a previously approved program of the Clean Energy Development Fund, the Department of Public Service shall publish online the proposed program or modification, shall provide an opportunity for public comment of no less than 30 days, and shall provide to the Clean Energy Development Board copies of all comments received on the proposed program or modification. In this subdivision (D), "substantial modification" shall include a change to a program's application criteria or application deadlines and shall include any change to a program if advance knowledge of the change could

unfairly benefit one applicant over another applicant. For the purpose of 3 V.S.A. § 831(c) (initiating rulemaking on request), a new program or substantial modification of a previously approved program shall be treated as if it were an existing practice or procedure.

(8) At least annually, the Clean Energy Development Board and the Commissioner or designee jointly shall hold a public meeting to review and discuss the status of the Fund, Fund projects, the performance of the Fund Manager, any reports, information, or inquiries submitted by the Fund manager or the public, and any additional matters they deem necessary to fulfill their obligations under this section.

(f) Clean Energy Development Fund Manager. The Clean Energy Development Fund shall have a Fund Manager who shall be an employee of the Department of Public Service.

(g) Bonds. The Commissioner of Public Service, in consultation with the Clean Energy Development Board, may explore use of the Fund to establish one or more loan-loss reserve funds to back issuance of bonds by the State Treasurer otherwise authorized by law, including Clean Renewable Energy Bonds, that support the purposes of the Fund.

(h) ARRA funds. All American Recovery and Reinvestment Act (ARRA) funds described in section 8016 of this title shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds and is consistent with all applicable requirements of ARRA, including requirements for administration of funds received and for timeliness, energy savings, matching, transparency, and accountability. These funds shall be expended for the following categories listed in this subsection, provided that no single project directly or indirectly receives a grant in more than one of these categories. After consultation with the Clean Energy Development Board, the Commissioner of Public Service shall have discretion to use non-ARRA monies within the fund to support all or a portion of these categories and shall direct any ARRA monies for which non-ARRA monies have been substituted to the support of other eligible projects, programs, or activities under ARRA and this section.

(1) The Vermont Small-scale Renewable Energy Incentive Program currently administered by the Renewable Energy Resource Center, for use in residential and business installations. These funds may be used by the Program for all forms of renewable energy as defined by subdivision 8002(2) of this title, including biomass and geothermal heating. The disbursement to this Program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) $2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. In this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process.

(5) $2 million to the Vermont Housing and Conservation Board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) $2 million to the Vermont Telecommunications Authority (VTA) to make grants of no more than $10,000 per turbine for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) $880,000.00 to the 11 regional planning commissions ($80,000.00 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(8) Concerning the funds authorized for use in subdivisions (4)-(7) of this subsection:

(A) To the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(B) In the event that the Commissioner of Public Service determines that a recipient of such funds has insufficient eligible projects, programs, or activities to fully utilize the authorized funds, then after consultation with the Clean Energy Development Board, the Commissioner shall have discretion to reallocate the balance to other eligible projects, programs, or activities under this section.

(9) The Commissioner of Public Service is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. The Commissioner shall allocate a portion of the amount utilized for administration to retain permanent, temporary, or limited service positions or contractors and the remaining portion to the oversight of specific projects receiving ARRA funding pursuant to section 6524 of this title.

(i) Rules. The Department and the Clean Energy Development Board each may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out its functions under this section and shall consult with each other either before or during the rulemaking process. (Added 2005, No. 74, § 2; amended 2005, No. 208 (Adj. Sess.), § 5; 2005, No. 215 (Adj. Sess.), § 280, eff. May 31, 2006; 2007, No. 65, § 94a; 2007, No. 92 (Adj. Sess.), § 7; 2009, No. 45, §§ 5, 9e, eff. May 27, 2009; 2009, No. 54, § 93, eff. June 1, 2009; 2009, No. 1 (Sp. Sess.), § E.235.3, eff. June 2, 2009; 2009, No. 2 (Sp. Sess.), § 4, eff. June 1, 2009; 2009, No. 3 (Sp. Sess.), § 13, eff. June 10, 2009; 2009, No. 67 (Adj. Sess.), § 68, eff. Feb. 25, 2010; 2009, No. 67 (Adj. Sess.), § 103; 2009, No. 159 (Adj. Sess.), § 18a; 2011, No. 47, § 20j, eff. July 9, 2011, except subdivisions (d)(3) and (4) and (e)(3) and (4) eff. May 25, 2011; 2013, No. 89, § 15; 2013, No. 95 (Adj. Sess.), § 82a, eff. Feb. 25, 2014; 2013, No. 142 (Adj. Sess.), § 53.)

§ 8016. ARRA energy monies

The expenditure of each of the following shall be subject to the direction and approval of the Commissioner of Public Service, after consultation with the Clean Energy Development Board established under subdivision 8015(e)(4) of this title, and shall be made in accordance with subdivisions 8015(d)(1) (expenditures authorized), and (e)(7)(A)(reporting) and subsections 8015(f) (Fund manager), (h)(ARRA funds), and (i) (rules) of this title and applicable federal law and regulations:

(1) The amount of $21,999,000.00 in funds received by the State under the appropriation contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, to the State Energy Program authorized under 42 U.S.C. § 6321 et seq.

(2) The amount of $9,593,500.00 received by the State under ARRA from the U.S. Department of Energy through the Energy Efficiency and Conservation Block Grant Program. (Added 2009, No. 67 (Adj. Sess.); § 69; amended 2011, No. 47, § 20l, eff. July 9, 2011.)