

Section 248 Criteria

Orderly Development of the Region [30 V.S.A. § 248(b)(1)]

With respect to an in-state facility, the project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality.

Natural Gas Transmission Lines [30 V.S.A. § 248(b)(1)(A)]

With respect to a natural gas transmission line subject to Commission review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Commission shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located.

Municipal Screening Requirements [30 V.S.A. § 248(b)(1)(B)]

With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Commission finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

Regional and Municipal Plans [30 V.S.A. § 248(b)(1)(C)]

With respect to an in-state electric generation facility, the Commission shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

Need for Present and Future Demand for Service [30 V.S.A. § 248(b)(2)]

The project is required to meet the need for present and future demand for service that could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and load management measures, including those developed pursuant to the provisions of subsection 209(d), section 218c, and subsection 218(b) of Title 30. In determining whether this criterion is met, the Commission shall assess the environmental and economic costs of the purchase, investment, or construction in the manner set out under subdivision 218c(a)(1) (least cost integrated plan) of Title 30 and, as to a generation facility,

shall consider whether the facility will avoid, reduce, or defer transmission or distribution system investments.

System Stability and Reliability [30 V.S.A. § 248(b)(3)]

The project will not adversely affect system stability or reliability.

Economic Benefit to the State [30 V.S.A. § 248(b)(4)]

The project will result in an economic benefit to the State and its residents.

Aesthetics, Historic Sites, Air and Water Purity, the Natural Environment, and Public Health and Safety [30 V.S.A. § 248(b)(5)]

With respect to an in-state facility, the project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts on primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

Public Health and Safety [30 V.S.A. § 248(b)(5)]

The project will not have an undue adverse effect on the health, safety, or welfare of the public and will not unnecessarily or unreasonably endanger the public.

Air Pollution and Greenhouse Gas Impacts [30 V.S.A. § 248(b)(5); 10 V.S.A. § 6086(a)(1)]

The project will not result in undue air pollution, sound, or greenhouse gas emissions.

Water Pollution [10 V.S.A. § 6086(a)(1)]

The project will not result in undue water pollution.

Headwaters [10 V.S.A. § 6086(a)(1)(A)]

The project will meet applicable health and Environmental Conservation Department regulations regarding the reduction of the quality of the ground or surface waters flowing through or upon lands which are not devoted to intensive development, and which lands are: (i) headwaters of watersheds characterized by steep slopes and shallow soils, or (ii) drainage areas of 20 square miles or less, or (iii) above 1,500 feet in elevation, or (iv) watersheds of public water supplies designated by ANR, or (v) areas supplying significant amounts of recharge to aquifers.

Waste Disposal [10 V.S.A. § 6086(a)(1)(B)]

The project will meet any applicable health and DEC regulations regarding the disposal of wastes, and will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells.

Water Conservation [10 V.S.A. § 6086(a)(1)(C)]

The project design has considered water conservation, incorporates multiple use or recycling where technically and economically practical, utilizes the best available technology for such applications, and provides for continued efficient operation of these systems.

Floodways [10 V.S.A. § 6086(a)(1)(D)]

Development within a floodway will not restrict or divert the flow of flood waters, and endanger the health, safety, and welfare of the public or of riparian owners during flooding, and development within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, and welfare of the public or of riparian owners during flooding.

Streams [10 V.S.A. § 6086(a)(1)(E)]

The project will maintain the natural condition of the stream and will not endanger the health, safety, or welfare of the public or of adjoining landowners.

Shorelines [10 V.S.A. § 6086(a)(1)(F)]

The project must of necessity be located on a shoreline in order to fulfill the purpose of the project, and the project will retain the shoreline and the waters in their natural condition, allow continued access to the waters and the recreational opportunities provided by the waters, will retain or provide vegetation which will screen the project from the waters, and will stabilize the bank from erosion, as necessary, with vegetative cover.

Wetlands [10 V.S.A. § 6086(a)(1)(G)]

The project will not violate the rules of the Vermont Agency of Natural Resources relating to significant wetlands.

Sufficiency of Water and Burden on Existing Water Supply [10 V.S.A. §§ 6086(a)(2) and (3)]

There is sufficient water available for the reasonably foreseeable needs of the Pproject and the project will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

Soil Erosion [10 V.S.A. § 6086(a)(4)]

The project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

Transportation [10 V.S.A. § 6086(a)(5)]

The project will not cause unreasonable congestion or unsafe conditions with respect to the use of highways, waterways, railways, airports, airways, or other means of transportation, existing or proposed.

Educational Services [10 V.S.A. § 6086(a)(6)]

The project will not cause an unreasonable burden on the ability of a municipality to provide educational services.

Municipal Services [10 V.S.A. § 6086(a)(7)]

The project will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services.

Aesthetics, Historic Sites, and Rare and Irreplaceable Natural Areas [10 V.S.A. § 6086(a)(8)]

The project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

Necessary Wildlife Habitat and Endangered Species [10 V.S.A. § 6086(a)(8)(A)]

The project will not destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the project will outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have been or will continue to be applied; or

(iii) no reasonably acceptable alternative site is owned or controlled by the applicant which would allow the project to fulfill its intended purpose.

Development Affecting Public Investments [10 V.S.A. § 6086(a)(9)(K)]

The project will not unnecessarily or unreasonably endanger public or quasi-public investments in facilities, services, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of, or access to any such facility, service, or lands.

Consistency With Company's Least Cost Integrated Plan [30 V.S.A. § 248(b)(6)]

With respect to purchases, investments, or construction by a company, the project is consistent with the principles for resource selection expressed in the company's approved least cost integrated plan.

Compliance with Twenty-Year Electric Plan [30 V.S.A. § 248(b)(7)]

Except as to a natural gas facility that is not part of or incidental to an electric generating facility, the project is in compliance with the electric energy plan approved by the Department under 30 V.S.A. Section 202(f), or that there exists good cause to permit the proposed action.

Outstanding Resource Waters [30 V.S.A. § 248(b)(8); 10 V.S.A. § 1424a(d)]

The project does not involve a facility affecting or located on any segment of the waters of the State that has been designated as outstanding resource waters by the Secretary of Natural Resources, except that with respect to a natural gas or electric transmission facility, the facility does not have an undue adverse effect on those outstanding resource waters.

Waste-to-Energy Facility [30 V.S.A. § 248(b)(9)]

With respect to a waste-to-energy facility the project: (A) is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a, which is consistent with the State Solid Waste Management Plan; and (B) is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a for the municipality and solid waste district from which 1,000 tons or more per year of the waste is to originate, if that municipality or district owns an operating facility that already beneficially uses a portion of the waste.

Existing or Planned Transmission Facilities [30 V.S.A. § 248(b)(10)]

Except as to a natural gas facility that is not part of or incidental to an electric generating facility, the project can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers.

Woody Biomass [30 V.S.A. § 248(b)(11)]

With respect to an in-state generation facility that produces electric energy using woody biomass, the project will: (A) comply with the applicable air pollution control requirements under the federal Clean Air Act, 42 U.S.C. § 7401 et seq.; (B) achieve the highest design system efficiency that is commercially available, feasible, and cost-effective for the type and design of the proposed facility; and (C) comply with harvesting procedures and procurement standards that ensure long-term forest health and sustainability. These procedures and standards at a minimum shall be consistent with the guidelines and standards developed pursuant to 10 V.S.A. § 2750 (harvesting guidelines and procurement standards) when adopted under that statute.